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ANNUAL REPORT OF THE

NORTH DAKOTA JUDICIAL SYSTEM

Calendar Year 1989

William G. Bohn
Executive Secretary

State of North Dakota

OFFICE OF STATE COURT ADMINISTRATOR

WILLIAM G. BOHN
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TO THE HONORABLE CHIEF JUSTICE
AND JUSTICES OF THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA:

TO THE HONORABLE MEMBERS OF THE
NORTH DAKOTA JUDICIAL CONFERENCE:

Once again I am pleased to submit to you the Annual Report of the North Dakota judicial system. This report highlights the activities of the North Dakota judicial system during calendar year 1989. It provides statistical information on our courts and reports on other developments and activities which are shaping our judicial system. It should prove valuable as a reference source for anyone wishing to learn about the operation of the judicial system in North Dakota.

I take this opportunity to publicly acknowledge the valuable assistance and cooperation extended to me by the judges and court personnel whose reports provided the information contained in the Annual Report. Particular thanks to the staff of the State Court Administrator's Office for their diligent work in compiling the statistics and designing the format for this work.

Respectfully submitted,

Wm Bohn

WILLIAM G. BOHN
State Court Administrator and
Judicial Conference Executive
Secretary

WGB/ml

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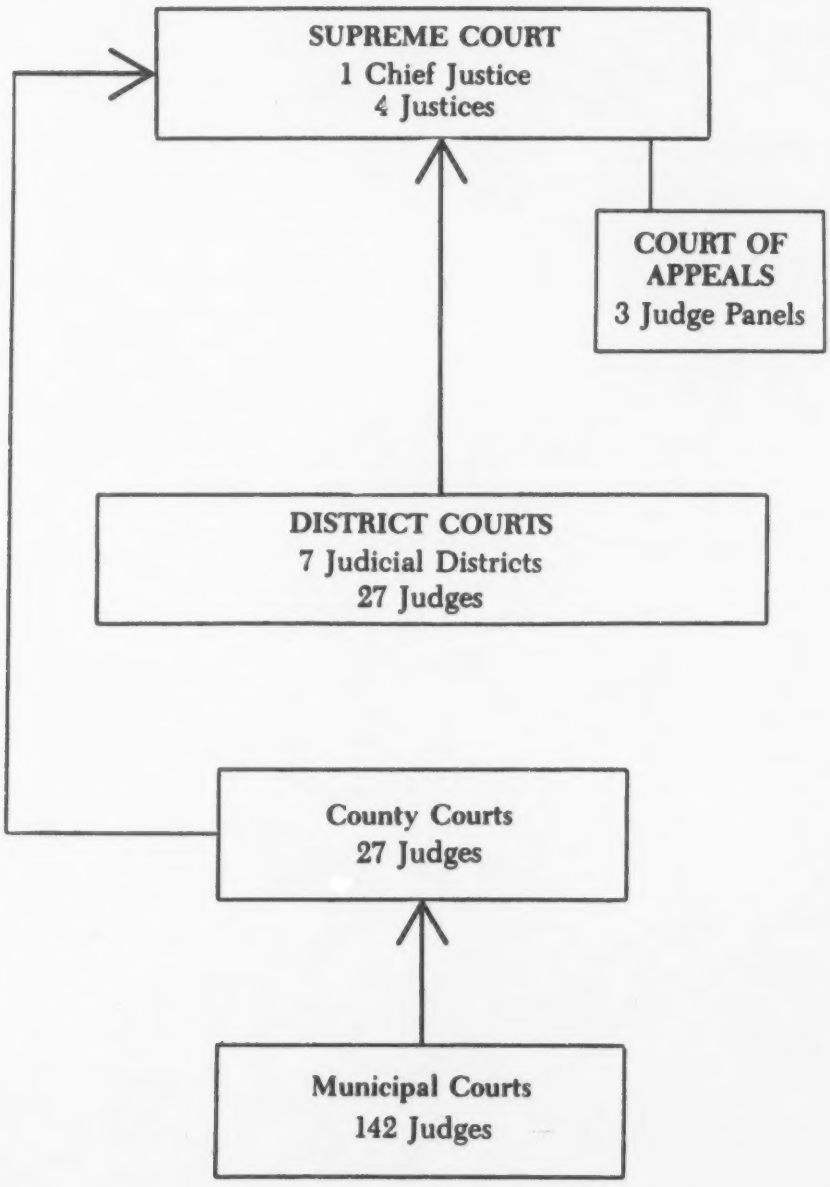
The Structure of the North Dakota Judicial System



Profile of the North Dakota Judicial System

Structure of the Court System

The original constitution of the State of North Dakota created a judicial system consisting of the supreme court, district courts, justice of the peace courts, and such municipal courts as provided by the legislature. This judicial structure remained intact until 1959 when the Legislature abolished the justice of peace courts in the state.

The adoption of a new judicial article to the state constitution in 1976 significantly modified the constitutional structure of the judicial system. The new judicial article vested the judicial powers of the state in a unified judicial system consisting of a supreme court, district courts, and such other courts as provided by law. Thus, under the new judicial article, only the supreme court and the district courts have retained their status as constitutional courts. All other courts in the state are statutory courts.

In 1981 the Legislature further altered the structure of the judicial system by enacting legislation which replaced the multi-level county court structure with a uniform system of county courts throughout the state. This new county court structure became effective on January 1, 1983.

With the new county court system in place, the judicial system of the state consists of the supreme court, district courts, county courts, and municipal courts.

Administrative Authority

In addition to these structural changes, the new judicial article clarified the administrative responsibilities of the supreme court by designating the Chief Justice as the administrative head of the judicial system and by granting the Chief Justice the authority to assign judges for temporary duty in any nonfederal court in the state. It also acknowledged the supreme court's rulemaking authority in such areas as court procedure and attorney supervision.

Selection and Removal of Judges

All judges in North Dakota are elected in nonpartisan elections. Justices of the supreme court are elected for ten-year terms; district court judges for six-year terms, and all other judges for four-year terms.

Vacancies in the supreme court and the district courts can be filled either by a special election called by the governor or by gubernatorial appointment. However, before a vacancy can be filled by gubernatorial appointment, the Judicial Nominating Committee must first submit a list of nominees to the governor from which the governor makes an appointment. Whether the vacancy is filled by a special election or by appointment, the person filling the judicial vacancy serves only until the next general election. The person elected to the office at the general election serves for the remainder of the unexpired term.

Vacancies in the various county courts are filled by the board of county commissioners of the county where the vacancy occurs or by a special election called by the board of county commissioners. If the county commissioners choose to fill the vacancy by appointment, they must select from a list of nominees submitted by the Judicial Nominating Committee.

If a vacancy occurs in a municipal court, it is filled by the executive officer of the municipality with the consent of the governing body of the municipality.

Under the North Dakota Constitution only supreme court justices and district court judges can be removed from office by impeachment. All judges, however, are subject to removal, censure, suspension, retirement or other disciplinary action for misconduct by the supreme court upon the recommendation of the Judicial Conduct Commission. Other methods for the retirement, removal and discipline of judges can be established by the legislature.

CASELOAD OVERVIEW OF NORTH DAKOTA COURTS
FOR 1988 AND 1989

Level of Court	Filings 1989	Filings 1988	Dispositions 1989	Dispositions 1988	Pending at Year's End 1989	Pending at Year's End 1988
Supreme Court	397	376	381	405	224	207
District Courts	20,516	20,626	20,256	20,417	9,308	9,048
County Courts	92,506	103,013	91,265	101,837	27,040	25,799
TOTAL	113,419	124,015	111,902	122,659	36,572	35,054

North Dakota Supreme Court

Left to right: (Sitting) Justice Beryl J. Levine; Chief Justice Ralph J. Erickstad; and Justice Herbert L. Meschke; (Standing) Justice H.F. Gierke and Justice Gerald W. VandeWalle.

The North Dakota Supreme Court has five justices. Each justice is elected for a ten-year term in a nonpartisan election. The terms of the justices are staggered so that only one judgeship is scheduled for election every two years. Each justice must be a licensed attorney and a citizen of the United States and North Dakota.

One member of the supreme court is selected as chief justice by the justices of the supreme court and the district court judges. The chief justice's term is for five years or until the justice's elected term on the court expires. The chief justice's duties include presiding over supreme court conferences, representing the judiciary at official state functions, and serving as the administrative head of the judicial system.

The North Dakota Supreme Court is the highest court for the State of North Dakota. It has two major types of responsibilities: (1) adjudicative and (2) administrative.

In its adjudicative capacity, the supreme court is primarily an appellate court with jurisdiction to hear appeals from decisions of the district courts and the county courts. All appeals from these courts must be accepted for review by the court. In addition, the court also has original jurisdiction authority and can issue such original and remedial writs as are necessary to exercise this authority.

The state constitution requires that a quorum, composed of a majority of the justices, is necessary before the court can conduct its judicial business. It also stipulates that the court cannot declare a legislative enactment unconstitutional unless four of the justices so decide. When the court decides an appeal, it is required to issue a written opinion stating the rationale for its decision. Any justice disagreeing with the majority decision may issue a dissenting opinion which explains the reasons for the disagreement with the majority.

In its administrative capacity, the supreme court has major responsibilities for ensuring the efficient and effective operation of all nonfederal courts in the state, maintaining high standards of judicial conduct, supervising the legal profession, and promulgating procedural rules which allow for the orderly and efficient transaction of judicial business. Within each area of administrative responsibility, the court has general rulemaking authority.

The court carries out its administrative responsibilities with the assistance of various committees and boards. It exercises its authority to admit and license attorneys through the State Bar Board. Its supervision of leagl ethics is exercised through the Disciplinary Board of the Supreme Court and its supervision of judicial conduct is exercised through the Judicial Conduct Commission. Continuing review and study of specific subject areas within its administrative jurisdiction is provided through four advisory committees-the Joint Procedure Committee, the Attorney Standards Committee, the Judiciary Standards Committee, and the Court Services Administration Committee. Other committees, such as the Judicial Planning Committee and the Judicial Training Committee also provide valuable assistance to the supreme court in important administrative areas.

Administrative personnel of the supreme court also play a vital role in helping the court fulfill its administrative functions. The clerk of the supreme court supervises the calendaring and assignment of cases, oversees the distribution and publication of supreme court opinions and administrative rules and orders, and decides certain procedural motions filed with the court. The state court administrator assists the court in the preparation of the judicial budget. The state court administrator prepares statistical reports on the workload of the state's courts, provides judicial educational services, and performs such other administrative duties that are assigned to him by the supreme court. The state law librarian supervises the operation of the state law library and serves as court bailiff when the court is in session.

North Dakota Supreme Court

Luella Dunn
Clerk of the Supreme Court

As the Supreme Court enters the decade of the nineties, it is facing the heaviest workload in the history of the Court. From the beginning of the '80's to the end, the workload of the Court was heavily impacted by increases in new filings, up 35%, total cases docketed, up 58%, dispositions, up 48%, and pre-argument procedural motions. However, the computerization of the Supreme Court's docket system, statistics, word processing and routine daily functions has greatly facilitated the work of the Court.

Calendar year 1989 saw an increase in new cases filed over last year. The number of cases carried over from 1988 was 208, a decrease from 1987, for a total number of 605 active cases on the docket during 1989.

CASELOAD SYNOPSIS OF THE SUPREME COURT FOR THE 1988 AND 1989 CALENDAR YEARS

	1989	1988	Percent Difference
New Filings	397	376	5.6
Civil	295	275	7.3
Criminal	102	101	1.0
Transferred to Court of Appeals	0	9	-100.0
Civil	0	4	-100.0
Criminal	0	5	-100.0
New Filings Balance	397	367	8.2
Civil	295	271	8.9
Criminal	102	96	6.3
Filings Carried over from Previous Calendar Year	208	248	- 16.1
Civil	159	196	- 18.9
Criminal	49	52	- 5.8
Total Cases Docketed	605	615	- 1.6
Civil	454	467	- 2.8
Criminal	151	148	2.0
Dispositions	381	407	- 6.4
Civil	295	308	- 4.2
Criminal	86	99	- 13.1
Cases Pending as of December 31	224	208	7.7
Civil	159	159	0.0
Criminal	65	49	32.7

The highest number of appeals originated in the South Central Judicial District followed by the Northwest Judicial District. The lowest number of appeals came from the Northeast Central Judicial District. The number of appeals per judge ranged from a high of 21 to 0.

Disposition of 381 cases by the Supreme Court in 1989, while a decrease from a record 407 dispositions in 1988, remains at a record level and accounts for a 48% increase over output from 1980. Of the total dispositions in 1989, 295 cases were civil and 86 were criminal. As of December 31, 1989, 224 cases were pending, an increase over 1988. Of those cases pending 159 were civil and 65 were criminal cases.

Cases decided by opinion reached a record high of 278 in 1989. Affirmances in civil cases were up, 130 in 1989 compared with 112 in 1988, and down in criminal cases, 39 in 1989 compared with 49 in 1988. The average number of cases decided by opinion per justice rose to 55.6. In other words, each justice prepared over four and one-half opinions per month plus special concurring or dissenting opinions. Dispositions by order decreased from 137 in 1988 to 103 in 1989.

DISPOSITIONS — 1989

	Civil	Criminal
BY OPINION:		
Affirmed; Modified and Affirmed	130	39
Reversed; Reversed and Remanded; Reversed and Modified	49	23
Affirmed in Part and Reversed in Part	13	3
Judgment Vacated and Remanded	1	0
Remanded	1	0
Dismissed	16	0
Discipline Imposed	3	0
Original Jurisdiction—Granted	0	0
Original Jurisdiction—Denied	0	0
Certified Question	0	0
Dispositions by Opinion	213	65
BY ORDER:		
Dismissed	50	16
Dismissed After Conference	17	3
Discipline Inactive Status	0	0
Original Jurisdiction—Granted	1	0
Original Jurisdiction—Denied	14	2
Dispositions by Order	82	21
Total Dispositions for 1989	295	86

The volume of pre-argument procedural motions was once again at a record high. The Supreme Court justices met once a week and frequently more often in motions conferences to consider various motions, applications for writs and other petitions. These matters often require the immediate attention of the Court and are most often crucial to the right of appeal and the rights of the parties. However, statistics cannot adequately reflect the time spent conferring on the 635 such motions/petitions filed or the research time required prior to the conferences.

At the end of 1988, a Petition for Review of a decision rendered by the Court of Appeals was pending in the Supreme Court. History was made in 1989 when the Supreme Court granted the Petition and ultimately reversed the Court of Appeals after rehearing and consideration. The Supreme Court also denied a Petition for Review which was filed in a case decided in 1988 by the Court of Appeals. In 1989 no panels of the Court of Appeals received assignments from the Supreme Court.

Also not reflected in the statistics provided is the Court's consideration of amendments to the various procedural and administrative rules and other petitions affecting the policies, procedures or structure of the judiciary. In 1989, twelve such "requests" were filed and the Supreme Court adopted/approved eight after considerable review and, in some cases, further amendments by the Court.

The present economic conditions of the state have had a definite impact on the work of the judiciary. Indications are that the caseload of the Supreme Court will continue to increase and, thus, the overall workload of the Court will become more onerous which will require the most efficient use of the Court's personnel and resources.

District Courts

There are district court services in each of the state's fifty-three counties. Except for clerks of court offices, the district courts are funded by the state of North Dakota. The district courts have original and general jurisdiction in all cases except as otherwise provided by law. They have the authority to issue original and remedial writs. They have exclusive jurisdiction in criminal felony cases and have general jurisdiction for civil cases.

The district courts also serve as the juvenile courts in the state and have exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived. This jurisdiction includes all cases where a female minor is seeking judicial authorization to obtain an abortion without parental consent. Unlike a majority of the other states, the responsibility for supervising and counseling juveniles who have been brought into court lies presently with the judicial branch of government in North Dakota. To meet these responsibilities, the presiding judge, in consultation with the district court judges of each judicial district, has the authority to employ appropriate juvenile case personnel. In addition to these personnel, the presiding judge, on behalf of the district court judges of the judicial district, may also appoint judicial referees to preside over juvenile proceedings, judgment enforcement proceedings, and domestic relations proceedings, other than contested divorces.

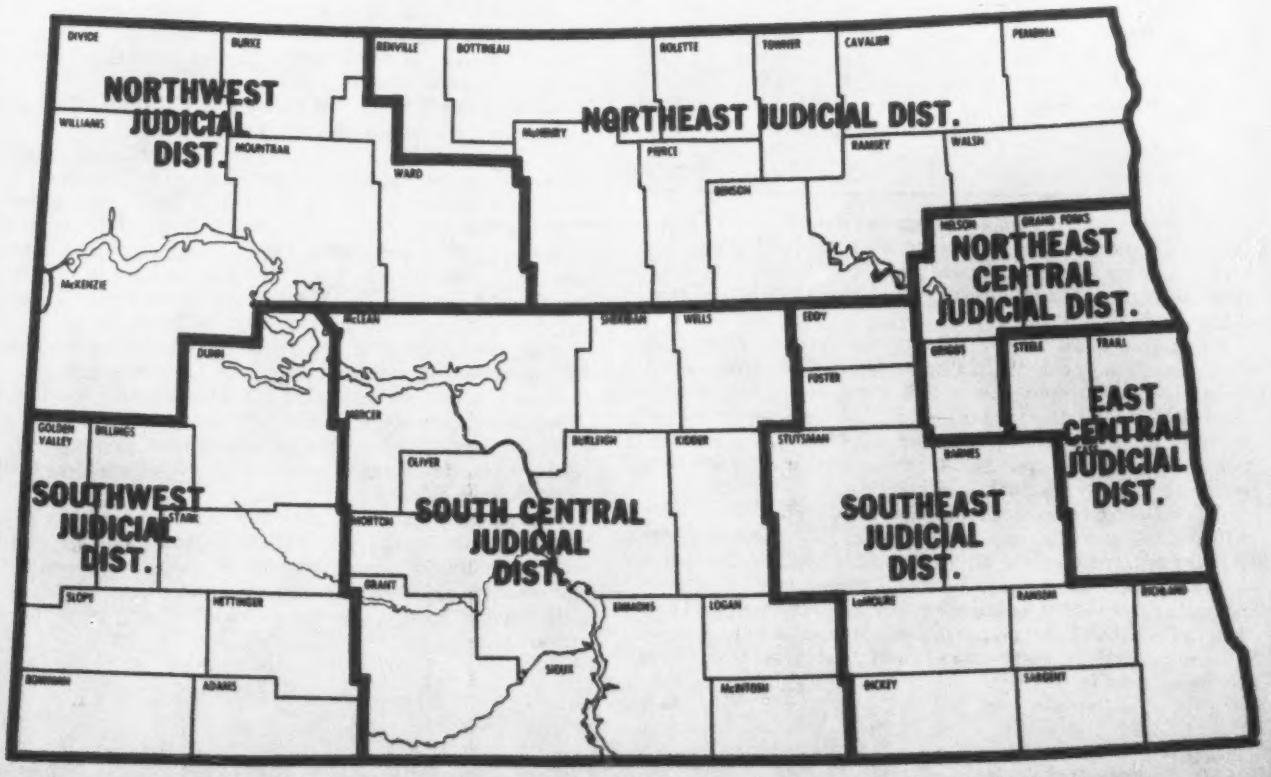
The district courts are also the appellate courts of first instance for appeals from the decisions of many administrative agencies. Acting in this appellate capacity, they do not conduct a retrial of the case. Their decisions are based on a review of the record of the administrative proceeding conducted by the administrative agency under review.

In 1979 the Supreme Court divided the state into seven judicial districts. In each judicial district there is a presiding judge who supervises all court services of all courts in the geographical area of the judicial district. All presiding judges are appointed by the chief justice with the approval of the Supreme Court. The duties of the presiding judge, as established by the Supreme Court, include convening regular meetings of the judges within the judicial district to discuss issues of common concern, assigning cases among the judges of the district, and assigning judges within the judicial district in cases of demand for change of judge. Six of the seven judicial districts are served by a court administrator, who has the administrative responsibility for liaison with governmental agencies, budget, facilities, records management, personnel, and contract administration.

There are twenty-seven district judges in the state. Five judges in three chamber city locations serve the South Central Judicial District, the geographically largest and most populous in the state. There are also five judges in the Northwest Judicial District serving in two chamber locations. Four judges serve the East Central Judicial District in one chamber city location, and four judges serve the Northeast Central Judicial District in one chamber city location. Three judges serve in each of the three remaining judicial districts, each in a different chamber city location, except in the Southwest Judicial District where two judges are chambered in one city. All district court judges are required by the state constitution to be licensed North Dakota attorneys, citizens of the United States and residents of North Dakota.

The office of district court judge is an elected position which is filled every six years in a nonpartisan election held in the district in which the judge will serve. If a vacancy occurs, the governor may either fill the vacancy by appointing a candidate from a list of nominees submitted by a judicial nominating committee or by calling a special election to fill the vacancy. If the vacancy is filled by the nomination process, the appointed judge serves until the next general election, at which time the office is filled by election for the remainder of the term.

NORTH DAKOTA JUDICIAL DISTRICTS



District Court Caseload

As indicated in the charts below, there was a slight decrease in the caseload of district courts in 1989. This was a reversal of the trend of a slight but steady increase of filings which has been evident since 1983.

Filings for non-domestic relations cases decreased by ten percent reversing the trend of the steady increase which had been seen since 1980.

The three major components of the district court caseload have remained stable in comparison with previous years. The civil component continues to be the largest category of cases making up 84% of the district court filings. Criminal and juvenile filings each contribute approximately 8% of the district court caseload.

The slight decrease was not felt statewide, three districts showed increases, three districts showed a decrease in filings, while the filings in one district remained virtually the same as 1988. Overall, the decrease in filings resulted in four fewer cases per judge being filed.

The percentage of criminal filings within each district varies greatly from year to year, caused in part by the relatively small number of cases. As in civil cases, the criminal cases showed a slight decrease in filings in 1989 reversing the trend that has been seen for the past several years. Despite the addition of three district judges since 1980, the statewide average of filings per judge has increased 161 cases in that time period. At the end of 1989 there were 9,308 pending compared with 9,048 cases pending at the end of 1988.

TYPES OF CASES FILED IN THE DISTRICT COURT DURING 1989

OTHER CIVIL (1,763) 8.6%
PROPERTY RELATED (1,257) 6.1%
JUVENILE CASES (1,809) 8.8%
CRIMINAL CASES (1,531) 7.5%
CONTRACT AND COLLECTIONS (2,886) 14.1%
DOMESTIC RELATIONS (11,270) 54.9%

DISTRICT COURT CASELOAD FOR CALENDAR YEARS 1988 AND 1989

	1989	1988	Percent Difference
New Filings	20,516	20,626	-0.5
Civil	17,176	17,398	-1.3
Criminal	1,531	1,554	-1.5
Juvenile	1,809	1,674	+8.1
Cases Carried Over From Previous Year	9,048	8,839	+2.4
Civil	8,344	8,128	+2.7
Criminal	704	711	-1.0
Juvenile	—	—	—
Total Cases Docketed	29,564	29,465	+0.3
Civil	25,520	25,526	-0.1
Criminal	2,235	2,265	-1.3
Juvenile	1,809	1,674	+8.1
Dispositions	20,256	20,417	-0.8
Civil	16,965	17,182	-1.3
Criminal	1,482	1,561	-5.1
Juvenile	1,809	1,674	+8.1
Cases Pending As Of December 31	9,308	9,048	+2.9
Civil	8,555	8,344	+2.5
Criminal	753	704	+7.0
Juvenile	—	—	—

DISTRICT COURT CASE TYPE FILING — 1989

CIVIL

Case Type	Filings
Property Damage	194
Personal Injury	367
Malpractice	41
Divorce	2,885
Adult Abuse	470
Custody	45
Support Proceed	6,812
Adoption	369
Paternity	553
Admin. Appeal	228
Appeal Other	26
Contract/Collect	2,886
Quiet Title	137
Condemnation	26
Forcible Detain	8
Foreclosure	1,063
Change of Name	136
Special Proceed	72
Trust	26
Foreign Judgment	473
Other	359
State Total	17,176

CRIMINAL

Case Type	Filings
Felony A	103
Felony B	346
Felony C	995
Misdemeanor A	55
Misdemeanor B	6
Infraction	0
Special Remedy	8
Appeal	2
Other	16
State Total	1,531

Civil Caseload

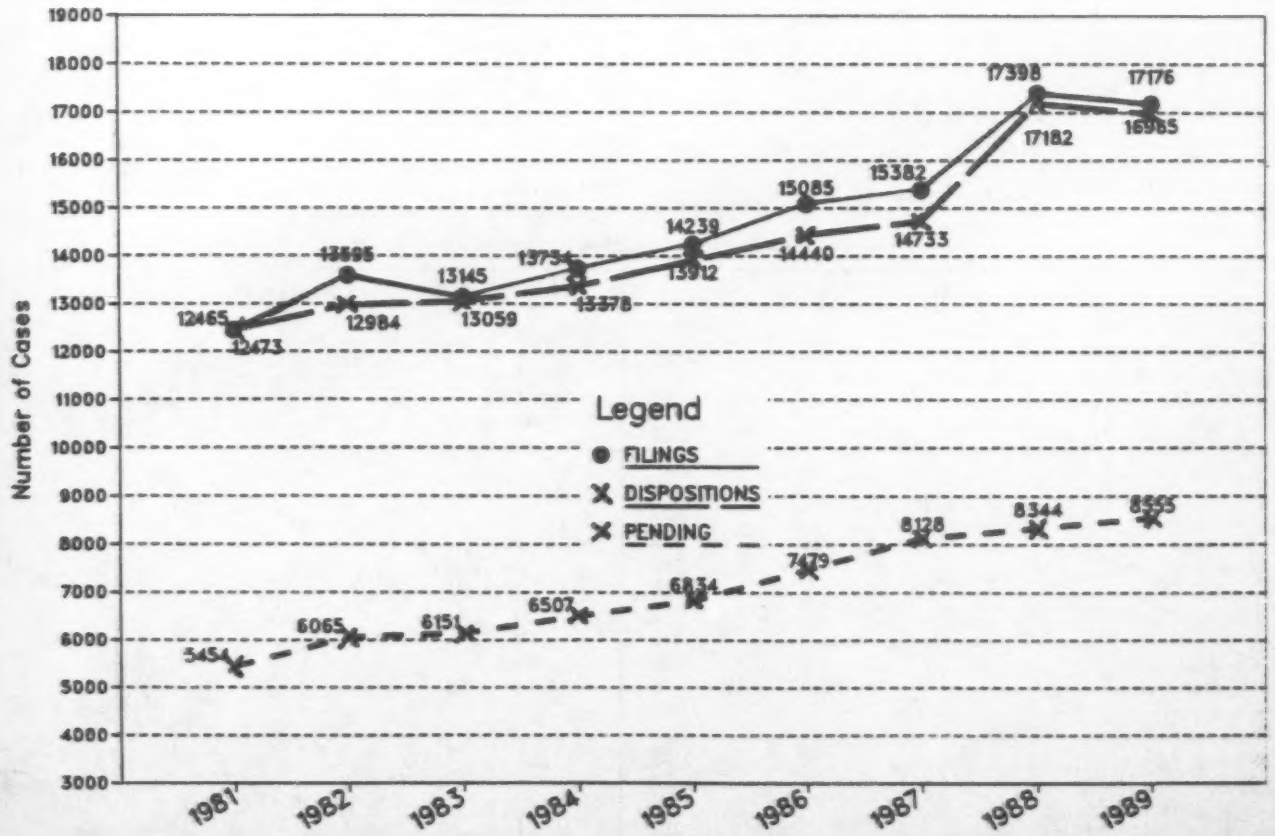
As indicated in the narrative dealing with district court caseload in general, the civil caseload showed a slight decrease in the past year.

For the third consecutive year, the filings of child support-related filings showed a substantial increase (+19%). Filings in the non-domestic relations area decreased by 16% compared with increases of 3% for each of the previous nine years. Domestic relations cases increased by 1%, contract and collection filings decreased by 21%, property related filings decreased by 7%, and other civil filings decreased by 10%. Within the domestic relations category, child support actions make up 60% of the cases, divorce 25%, adoption 3%, paternity 5%, adult abuse 4%, and custody less than 1%.

Adult abuse filings again showed an increase. In 1984 there were 156 adult abuse cases compared with 470 filings in 1989. Divorce filings, however, showed a slight decrease with 3,090 cases filed in 1988 and 2,885 cases filed in 1989.

The number of pending civil cases increased by 2.5% over 1988. Perhaps the best indication of how well district courts are handling civil cases is their compliance with docket currency standards as established by the supreme court. The standards call for the disposition of civil cases within twenty-four months of filing and within 90 days of conclusion of a trial. Of the cases pending at the end of 1989, only 4% of the cases exceeded the docket currency standards. This figure has been relatively stable since 1983.

ND CIVIL CASELOAD COMPARISONS FOR
DISTRICT COURT FOR 1981-1989



Criminal Caseload

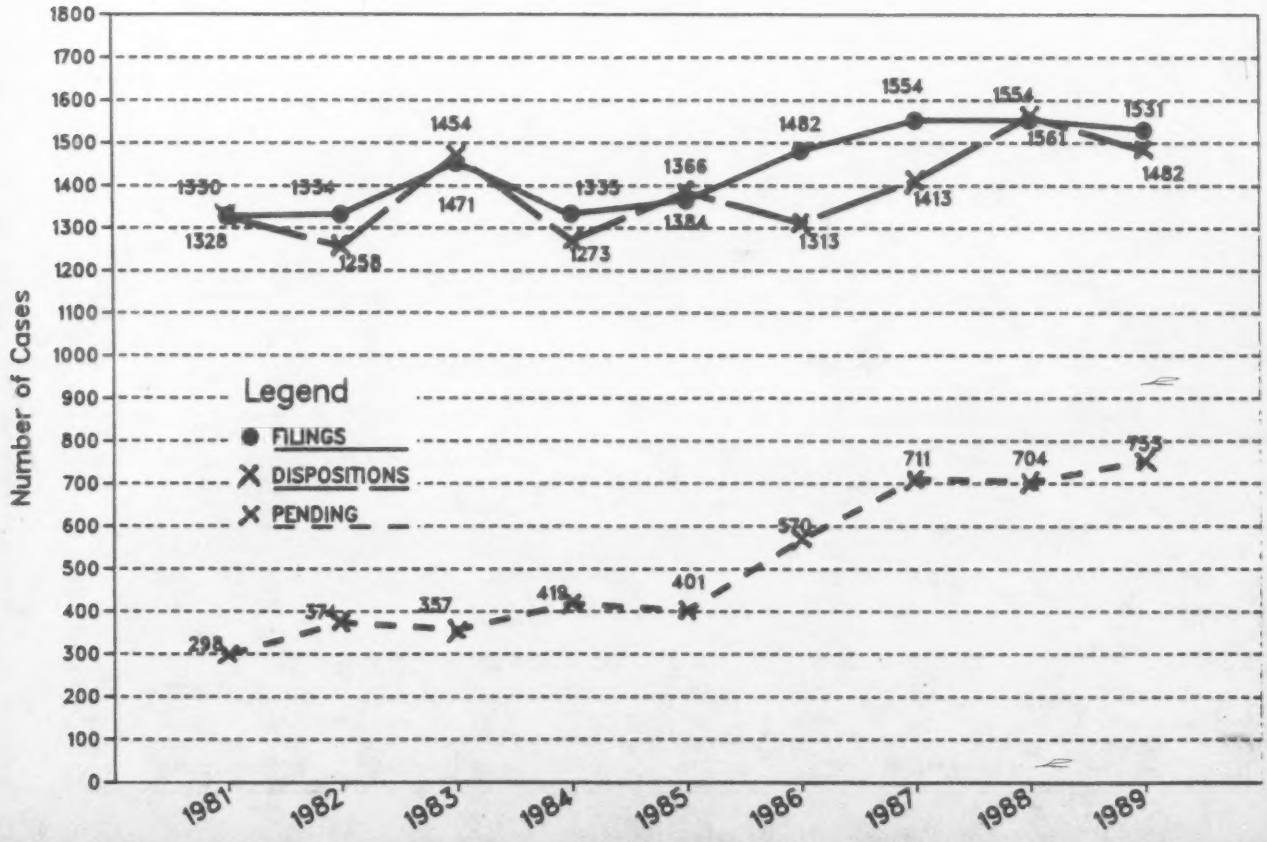
North Dakota continued its traditional low rate of crime during 1989. While the number of criminal filings decreased slightly, the types of cases remained relatively stable.

Of the criminal cases filed in district court, 7% were felony A, 23% were felony B, 65% were felony C, while 5% were misdemeanors or other criminal filings. In 1988 the breakdown was 6% felony A, 24% felony B, and 67% felony C.

Statewide, 21% of the criminal cases were disposed of by trial. Jury trials accounted for 19% of the trials or 57 cases. This compares with 34 cases in 1987 and 58 cases in 1988.

As with civil cases, docket currency standards have been established for criminal cases. Standards call for these cases to be decided within 100 days of filing of information or indictment in the district court. The presiding judge of the district or chief justice of the supreme court can waive the standards for specific cases if good cause is demonstrated. At the end of 1989, 27% of the pending criminal cases were older than 120 days compared to 23% in 1988 and 28% in 1987. The graph below shows the trend for criminal filings, dispositions, and pending cases.

CRIMINAL CASELOAD COMPARISON FOR DISTRICT COURT
FOR 1981-1989



JUVENILE CASELOAD

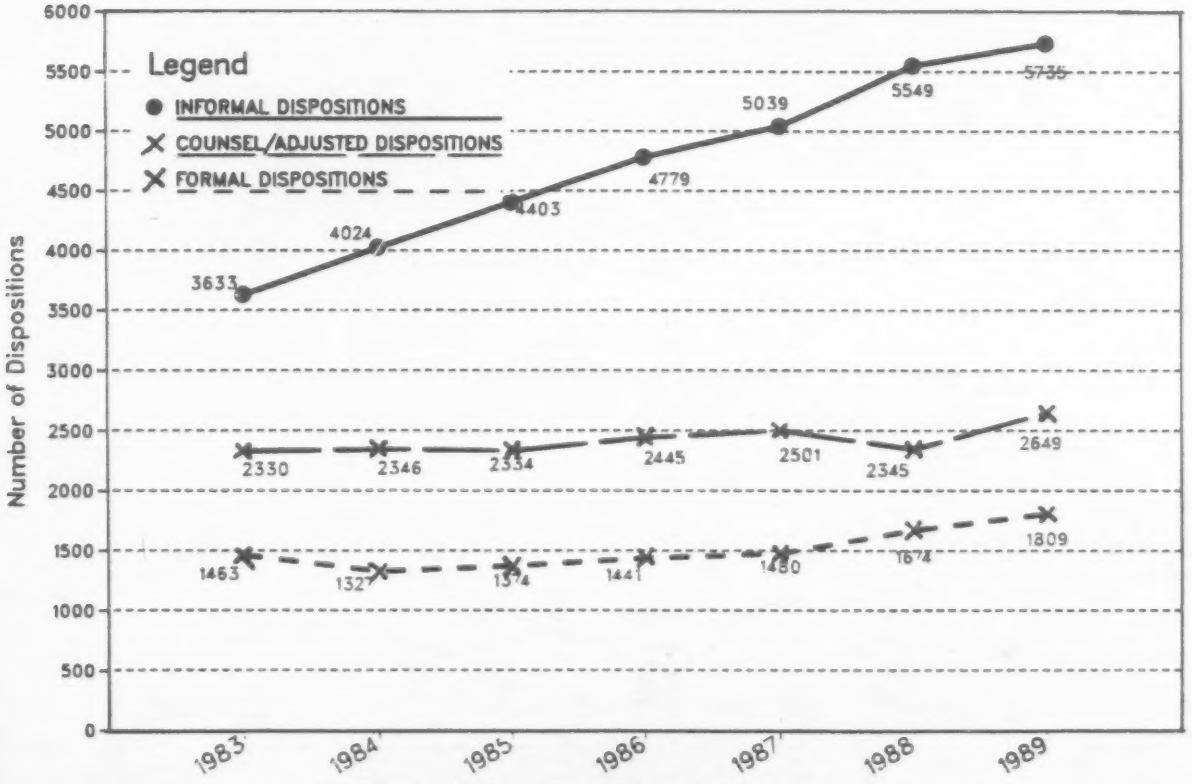
As with the criminal caseload, the low violent crime rate in North Dakota is reflected in its juvenile court statistics. Offenses against person made up 3% of the juvenile court caseload. Meanwhile, status offenses (offenses which only a child can commit) made up 16% of the caseload. Offenses against property 28%, traffic offenses 6%, deprivation 22%, and other filings 25%.

The method by which cases were disposed showed a continued increase in the use of informal supervision in raw numbers while the percentage of overall cases disposed of in this manner decreased. In 1989, 56% of the cases heard were disposed of through informal adjustments, down from 58% in 1988. Additionally, 26% of the cases were counsel adjusted, and 18% were handled formally. This compares with 24% counsel adjusted in 1988 and 18% handled formally.

Overall, the juvenile court caseload increased by 3% continuing a trend that has been present for the last several years. The table on the adjacent page compares the reason for referral for the juvenile court in 1988 and 1989. As in previous years, the illegal possession or purchase of alcoholic beverages continues to be the most common single reason for referral to the juvenile court. Misdemeanor theft ranks second. Traffic offenses decreased by 6% following a 5% increase in 1988. This indicates that the filings have stabilized after a 1987 legislative change which provided more jurisdiction over traffic offenses by the juvenile court.

The area of filings in deprivation cases continues to show an increase, however, the increase may be more attributable to the recording of reports from county social services where no further court action is recommended. This type of case had been previously unrecorded in many of the judicial districts.

COMPARISON OF JUVENILE DISPOSITIONS
FOR 1983-1989



TYPES OF JUVENILE COURT DISPOSITIONS
FOR 1988 AND 1989

Judicial District	Formal 1989	Formal 1988	Informal 1989	Informal 1988	Counsel/ Adjusted 1989	Counsel/ Adjusted 1988	Total Dispositions 1989	Total Dispositions 1988	Percent Difference For Total Dispositions
Northwest	165	150	830	914	145	149	1,140	1,213	-6.0
Northeast	194	237	372	369	847	736	1,413	1,342	+5.3
Northeast Central	235	211	1,135	1,058	119	127	1,489	1,396	+6.7
East Central	546	514	559	435	714	443	1,819	1,392	+30.7
Southeast	189	129	690	652	268	264	1,147	1,045	+9.8
South Central	396	363	1,935	1,945	340	425	2,671	2,733	-2.3
Southwest	84	70	214	176	216	201	514	447	+15.0
TOTAL	1,809	1,674	5,735	5,549	2,649	2,345	10,193	9,568	+6.5

REASONS FOR REFERRAL TO JUVENILE COURT SERVICES IN 1988 AND 1989

	1989	1988	Percent Difference
UNRULY	1,649	1,503	+9.7
Runaway-Instate	563	548	+2.7
Runaway-out-of-state	40	40	0
Truancy	196	164	+19.5
Ungovernable Behavior	431	487	-11.5
Conduct/Control Violation	53	50	+6.0
Curfew Violation	294	184	+59.8
Other	72	30	+140.0
DELINQUENCY	5,989	5,824	+2.8
Offense Against Person	298	246	+21.1
Assault	170	139	+22.3
Homicide	0	0	0
Kidnapping	0	1	-100.0
Sex Offense	62	56	+10.7
Other	66	50	+32.0
Offense Against Property	2,742	2,594	+5.7
Arson	14	15	-6.7
Burglary	156	151	+3.3
Criminal Mischief	449	397	+13.1
Criminal Trespass	147	133	+10.5
Forgery	82	49	+67.3
Robbery	2	1	+100.0
Theft-Misdemeanor	1,037	1,019	+1.8
Theft-Felony	615	594	+3.5
Unauthorized Use of Vehicle	104	82	+26.8
Other	136	153	-11.1
Traffic Offenses	559	605	-7.6
Driving w/o license	327	380	-13.9
Negligent Homicide	0	0	0
Other	232	225	+3.1
Other Offenses	2,390	2,379	+0.5
Disorderly Conduct	238	186	+28.0
Firearms	29	31	-6.5
Game & Fish Violation	47	66	-28.8
Obstruction of Law	20	21	-4.8
Possession or Purchase of Alcohol Beverage	1,830	1,857	-1.5
Controlled Substance Violation	71	79	-10.1
Other	155	139	+11.5
DEPRIVATION	2,168	1,711	+26.7
Abandoned	4	4	0
Abuse/Neglect	1,486	1,150	+29.2
Deprived	586	537	+9.1
Other	92	20	+360.0
SPECIAL PROCEEDINGS	78	82	-4.9
Involuntary Termination of Parental Rights	5	10	-50.0
Voluntary Termination of Parental Rights	72	71	+1.4
Other	1	1	0
TOTAL	9,884	9,120	+8.4

Report of the Northwest Judical District

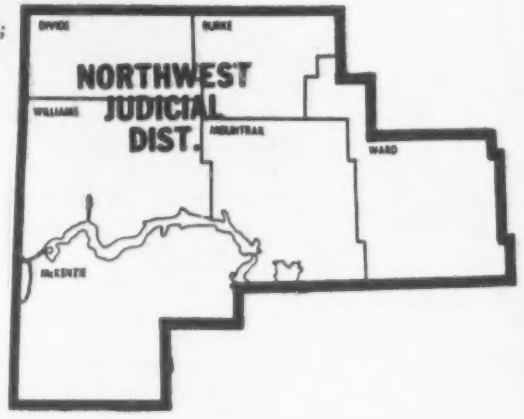
The Honorable Wallace D. Berning, Presiding Judge
William Blore, Court Administrator

District Court Judges: Wallace D. Berning, Presiding Judge; Jon R. Kerian; Everett Nels Olson; William M. Beede; and Bert L. Wilson.

County Court Judges: Gary A. Holum; Gordon C. Thompson; Robert W. Holte; and William W. McLees, Jr.

Number of Counties in District: 6

District Court Chambers: Minot and Williston



Personnel:

District Judges Beede and Wilson have primary responsibility for cases in Williams, Divide, and McKenzie Counties. Judges Berning, Olson and Kerian have primary responsibility for cases in Ward, Burke and Mountrail Counties.

In Ward County, Judge Gary Holum is continuing to utilize services of referee Mark Flagstad for Small Claims. Judge Holum also continues his contractual agreement with McKenzie County, utilizing the services of Judge McLees on a part-time basis with a cost sharing arrangement with McKenzie County. Judge Holte continues to serve Burke, Mountrail and Divide Counties. Budget restraints have prevented planned implementation for full-time judicial referee services in the district. The temporary arrangement using Bill Blore, Court Administrator, and Philip Stenehjem, retired Juvenile Supervisor, as Referees on a part-time basis continues.

Major personnel changes have occurred in the Williston Juvenile Court staff as two probation officers, David Simonson and Susan Eiken resigned and new probation officers Dean Natwick and Carol Sorg filled their positions. In the Minot office, Maureen Slorby and Barbara Nathan continue their "Job Sharing" on a two-fifth—three-fifth arrangement for one full-time probation officer position.

Facilities:

A remodeled Detention Facility in the Williams County Jail has been completed with twenty-nine youths using the facility in the past year. Ward County has consented to remodeling of the basement in the Ward County Jail to facilitate a need for holding status offenders until an assessment and placement can be realized. Library facilities in Ward County have required removing volumes to Chambers of the individual judges in order to deal with space limitations. Westlaw access through a computer hookup to the Ward County Library was a short-lived addition as budget limitations required termination of the contract.

The Clerk of Court's office in Minot continues to upgrade their new open filing system which has assisted relieving some constraints which resulted from lack of adequate space.

Case Load Impact:

While the numerical referrals to juvenile court remain somewhat consistent district wide, the Minot Office experienced a reduction of approximately 170 cases. This, however, was offset by an increasing demand on juvenile court staff for participation in Neglect, Abuse and Permanency Planning Committee activities with community agencies. Child Support enforcement caseloads continue to rise with collections district-wide exceeding $5.5 million dollars. This represents more than a million dollar increase in one year. The payments are in small monthly amounts and reflect a large volume of activity for the Clerks of Court. Computer programs now assist the streamlining of the entire process. Recoupment of attorney fees and restitution in district court criminal cases exceeded $50,000. This number represents approximately a $15,000 increase over the past year. This amount reflects not only the emphasis placed on restitution by judges, but also diligent and conscientious monitoring of probationers by the State Probation and Parole staff in the Northwest District.

Utilizing Community Resources:

The Northwest District continues to place emphasis on the utilization of volunteers and students to assist professional and clerical staff. Minot State University has provided student interns from its criminal justice and legal secretary's program on an ongoing basis. These students receive college credit for "hands on" experience while the court benefits from skills provided without cost. The Guardian ad Litem program has expanded to employ local citizens who assist formal juvenile court proceedings. A special workshop training Guardians ad Litem has been provided for participants.

Funding for community programs continue to diminish and request for staff involvement to support community activities for youth continues to mount. The Northwest District is seeking additional methods to improve services to the public with existing resources.

NORTHWEST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1988 AND 1989

	1989	1988	Percent Difference
New Filings	3,665	3,465	+5.8
Civil	3,262	3,098	+5.3
Criminal	238	217	+9.7
Juvenile	165	150	+10.0
Cases Carried Over From Previous Year	1,296	1,366	-5.1
Civil	1,226	1,263	-2.9
Criminal	70	103	-32.0
Juvenile	—	—	—
Total Cases Docketed	4,961	4,831	+2.7
Civil	4,488	4,361	+2.9
Criminal	308	320	-3.8
Juvenile	165	150	+10.0
Dispositions	3,640	3,535	+2.9
Civil	3,252	3,135	+3.7
Criminal	223	250	-6.8
Juvenile	165	150	+10.0
Cases Pending As Of December 31	1,321	1,296	+1.9
Civil	1,236	1,226	+0.8
Criminal	85	70	+21.4
Juvenile	—	—	—

Report of the Northeast Judicial District

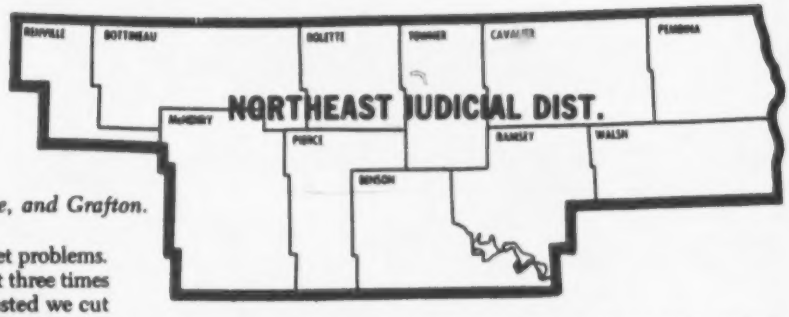
The Honorable James O'Keefe, Presiding Judge

District Judges: James H. O'Keefe, Presiding Judge; William A. Neumann, and Lee A. Christofferson.

County Court Judges: James M. Bekken, Donovan Foughty, M. Richard Geiger, Lester S. Ketterling, John C. McClintock, and Thomas K. Metelmann.

Number of Counties in District: 11

District Court Chambers: Bottineau, Devils Lake, and Grafton.



The most significant happenings in 1989 were budget problems. Throughout the year it was necessary to cut our budget three times for the following reasons: (1) Governor Sinner requested we cut our budget by 2%, due to a projected shortfall in revenues at the end of the '87-89 biennium; (2) the legislature granted a 7.1% pay raise for all state employees and a 6% and 7% progressive raise for the judges in 1989-1991 biennium, however, they failed to increase our budget enough to cover the pay increases, so in effect, we financed the raises by cutting our operating expense budget; (3) the voters of North Dakota in the December 1989 referral action voted resoundingly to cut the state's taxes. This left the task of cutting almost 9% from our budget.

There have been many changes in the district in 1989. Foremost, the chamber previously located in Rugby moved to Bottineau during the summer months. This move was approved by the Supreme Court after much debate by parties from both cities, each wishing to host the chamber. This move, though being somewhat controversial, should allow for more efficient operations since Bottineau County had a much higher caseload than Pierce County, where Rugby is the county seat. It also puts judicial services in a more central location for the western "sub-district."

The juvenile court in Bottineau has hired a new secretary, and we welcome Deanna Bohl to our staff. Another addition to the west end of the district is a new computer, making the Lexis research system accessible to Judge Neumann. This will also mean a significant drop in library costs, since many book subscriptions have already been cancelled.

In 1989 we also had our first experience of having cameras in the courtroom, which is allowed under AR 21E. Cameras were allowed three times, and arrangements have worked smoothly on all occasions.

Our caseload seems to have leveled off, varying from last year by less than 3% in both civil and criminal cases. Areas in which there were significant variances in caseload include: foreclosures, down 32%; divorce, down 8%; and support proceedings, up 14%. The district collected over $2.5 million in child support, up 13% from 1988. Most of this money was collected in small monthly payments by the Clerks of Court offices. Our number of aging cases (cases over 24 months old) continues to decline, decreasing by 37% for the second consecutive year. We hope, through our efforts, to continue this trend towards compliance with docket currency standards.

NORTHEAST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1988 AND 1989

	1989	1988	Percent Difference
New Filings	1,846	1,906	-3.1
Civil	1,536	1,513	+1.5
Criminal	116	156	-25.6
Juvenile	194	237	-18.1
Cases Carried Over From Previous Year	898	929	-3.3
Civil	782	822	-4.9
Criminal	116	107	+8.4
Juvenile	—	—	—
Total Cases Docketed	2,744	2,835	-3.2
Civil	2,318	2,335	-0.7
Criminal	232	263	-11.8
Juvenile	194	237	-18.1
Dispositions	1,855	1,937	-4.2
Civil	1,536	1,553	-1.1
Criminal	125	147	-15.0
Juvenile	194	237	-18.1
Cases Pending As Of December 31	889	898	-1.0
Civil	782	782	—
Criminal	107	116	-7.8
Juvenile	—	—	—

Report of the Northeast Central Judicial District

The Honorable Kirk Smith, Presiding Judge
Patricia Thompson, Court Administrator

District Court Judges: Kirk Smith, Presiding Judge, Joel D. Medd, Bruce E. Bohlman and Lawrence E. Jahnke
County Court Judges: Frank Kosanda and Jonal H. Uglem
Number of Counties in District: 3
District Court Chambers: Grand Forks

Governor George Sinner appointed Hon. Lawrence E. Jahnke to the fourth district judgeship for this district. That appointment was effective May 1, 1989. Formal investiture ceremonies took place at the Grand Forks County Courthouse June 13, 1989. The Honorable Chief Justice Ralph J. Erickstad administered the oath of office to Judge Jahnke. The Honorable Justice H.F. "Sparky" Gierke, III, conducted the robing ceremony. The ceremonies were well attended by the public as well as by many representatives of the Bench and Bar. Judge Jahnke has been actively utilizing the second floor chambers and courtroom that were prepared while his appointment had been pending.

The Space Facilities Committee has continued its meetings during 1989. The objective of the Committee has been retained, that is, the renovation of the first floor of the County Office Building adjacent to the Courthouse to be followed by the refitting of the second and third floors of the Courthouse for District Court purposes. Planning and consultation has continued at a slowed pace from previous years because of county revenue limitations.

Other revenue limitations on the district have resulted from the December 5, 1989 referral election defeat of certain income tax and sales tax legislation. The district has taken measures to accommodate operations to the approximately $200,000 reduction in budgeted funds for the 1989-1991 biennium. Two authorized positions have remained vacant at the end of the year. One of those positions was a vacancy that occurred in the secretarial staff of Juvenile Court. The other would have provided additional needed secretarial service for the district court. Three other juvenile probation officers resigned their positions with the court for personal advancement reasons. They have been replaced by other qualified personnel.

Equipment purchases have been postponed because of imposed budget reductions. Various economies have been affected in the operational sector for the court, including shortening of the number of available peremptories in civil jury trials under amended rules of procedure as approved by the Supreme Court.

Essential services including conduct of jury trials as called for have been maintained. The judges of the district have been committed to maintenance of those services throughout the present period of fiscal difficulties.

Juvenile Court:

James Becker and James Fish, along with Joanne Gerszewski, came on board as probation officer replacements in Juvenile Court in 1989.

Three Criminal Justice, Social Work and Counselling and Guidance students from UND are receiving practical training with the Juvenile Court. Twelve volunteer seminar workers are assisting the Juvenile Court in the Community Service and Education Program. In this program, each juvenile is supervised by a student and given assistance with their studies.

Several Juvenile Court personnel have volunteered to serve on committees in the community.

Joanne Gerszewski and James Becker are serving Drug and Alcohol Program. This is supported by a federal grant for drug free schools.

James Fish is a Facilitator on the Parent/Child Nurturing Group. He supervises the Teen Talk Line; and is on the Big Brother/Big Sister Selection Committee.

Deb Carlson is on the Mayor's Task Force on Human Needs, as well as the Drug Free Schools Advisory Committee.

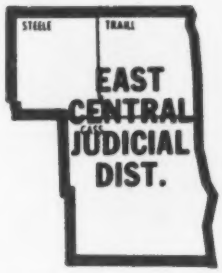
The Juvenile Court continues to utilize the Assertiveness Training Program, as well as the Community Service Program, and the Education Program as described above.

NORTHEAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1988 AND 1989

	1989	1988	Percent Difference
New Filings	2,865	2,734	+4.8
Civil	2,392	2,307	+3.7
Criminal	238	216	+10.2
Juvenile	235	211	+11.4
Cases Carried Over From			
Previous Year	1,195	1,269	-5.8
Civil	1,107	1,189	-6.9
Criminal	88	80	+10.0
Juvenile	—	—	—
Total Cases Docketed	4,060	4,003	+1.4
Civil	3,499	3,496	+0.1
Criminal	326	296	+10.1
Juvenile	235	211	+11.4
Dispositions	2,828	2,808	+0.7
Civil	2,378	2,389	-0.5
Criminal	215	208	+3.4
Juvenile	235	211	+11.4
Cases Pending As Of			
December 31	1,232	1,195	+3.1
Civil	1,121	1,107	+1.3
Criminal	111	88	+26.1
Juvenile	—	—	—

Report of the East Central Judicial District

The Honorable Norman J. Backes, Presiding Judge
William P. Wilson, Court Administrator



District Court Judges: Norman J. Backes, Presiding Judge; Lawrence A. Leclerc; Michael O. McGuire; and Cynthia A. Rothe
County Court Judges: Georgia Dawson; Frank Racek; and Jonal Uglem
Number of Counties in District: 3
District Court Chambers: Fargo

District Court:

The District's totals for new filings and cases docketed in 1989 held rather steady as compared with those same categories in 1988. Dispositions, on the other hand, were up almost 40%, and cases pending dropped by over 50%, reflecting an increase in both efficiency in handling cases and docket currency.

Although a number of minor problems remain in the computerized link between Fargo and Bismarck, improvements continue to be made and in the near future Cass County's new computer system should resolve any remaining difficulties. The district also continues to perfect its ability to retrieve docket currency information in an effort to improve even more its case management.

This year expanded media coverage has become much more common in the courtrooms. On three separate occasions the media has been present with television and audio coverage. Through mutual understanding of each other's goals and problems, both the judiciary and the press have fared well together.

Juvenile Court:

There were 1,814 juvenile cases processed in the East Central Judicial District in 1989. Of these cases, 1,274 were processed in an informal manner, without the necessity of filing formal petitions.

Our restitution program continues to be successful with some $21,695 collected and returned to the victims in 1989. In addition, 1,566 hours of the societal restitution were completed in the East Central Judicial District.

In 1988 our juvenile probation officers attended a forty-hour training session to learn the techniques of mediation. It was hoped that these juvenile court personnel would be able to serve as mediators in custody and visitation disputes, thereby helping to alleviate the already heavy caseload facing the judicial referees in the district. This year, because of the training, the district court judges were able to assign a fair number of cases to these probation officers for mediation.

Child Support:

For yet another year, annual collections of child support increased over the previous year's collections by some thirty percent. In addition, IV-D reimbursements helped to reduce expenditures. Once again, much of this success can be attributed to the district's procedure of setting up an optional meeting between the Regional Child Support attorney from the State's Attorney's office and the obligor. The purpose of this meeting is to reach a written stipulated settlement on the matter and thus save considerable court time.

Intern Program:

The district's internship program, held in cooperation with the local colleges, has continued to benefit college students this year. By observing and actually working alongside court and law enforcement personnel, the students gain extremely valuable "hands-on" experience to take back with them to their schools and ultimately to their careers.

In addition, this year the district added a legal secretarial internship program. The program was adopted to give legal secretarial students the same practical experiences the district court has been giving college interns.

Jury:

The court administrator has continued his personal orientation meeting with jurors at the commencement of their service. Often held with the clerk of court present, many juror questions concerning a variety of topics are answered prior to the commencement of jury service and the jurors themselves seem much more comfortable with their role in the judicial process.

County Court:

The county court of Cass County continues to show an increase in its caseload with a 15% upswing in criminal filings and a 9½% rise in civil filings; Traill County showed an increase of 12% in criminal filings with civil filings holding steady. In addition, Cass County has been supplying the Cass County Court with a probation officer to work exclusively with its misdemeanor offenders. This probation officer worked part time during 1989, but is expected to work full time in 1990.

EAST CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1988 AND 1989

	1989	1988	Percent Difference
New Filings	4,592	5,016	-8.5
Civil	3,712	4,233	-12.3
Criminal	334	269	+24.2
Juvenile	546	514	+6.2
Cases Carried Over From Previous Year	2,897	2,312	+25.3
Civil	2,765	2,170	+27.4
Criminal	132	142	-7.0
Juvenile	—	—	—
Total Cases Docketed	7,489	7,328	+2.2
Civil	6,477	6,403	+1.2
Criminal	466	411	+13.4
Juvenile	546	514	+6.2
Dispositions	4,345	4,431	-1.9
Civil	3,478	3,638	-4.4
Criminal	321	279	+15.1
Juvenile	546	514	+6.2
Cases Pending As Of December 31	3,144	2,897	+8.5
Civil	2,999	2,765	+8.5
Criminal	145	132	+9.8
Juvenile	—	—	—

Report of the Southeast Judicial District

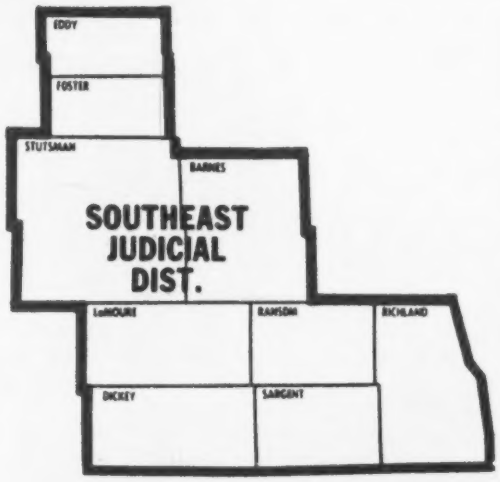
The Honorable Robert L. Eckert, Presiding Judge
Marguerite Aldrich, Court Administrator

District Court Judges: Robert L. Eckert, Presiding Judge; Gordon O. Hoberg; and John T. Paulson.

County Court Judges: James M. Bekken; Mikal Simonson; Harold B. Herseth; Bayard Lewis; Gary D. Neuharth; and Lowell O. Tjon.

Number of Counties in District: 9

District Court Chambers: Wahpeton, Jamestown and Valley City.



Case Filings Decrease:

District Court and County Court case filings decreased slightly from the 1988 level, which, together with telephone conferencing, increased emphasis on settlement negotiations and complying with docket currency standards has had the effect of reducing by 36% the number of civil and criminal pending cases in district court.

Indigent Defense Recoupment:

The Southeast Judicial District at the end of the 1987/89 biennium on June 30, 1989, was credited with recouping $23,456 in indigent defense counsel fees, or 27% of the state's total. The indigent defense budget for the district is 16% of the state's total judiciary appropriation for indigent defense.

Effect of Reduced Budget:

District court budgets were reduced 9% following the successful referral of tax measures in a December 5, 1989, special election. In the Southeast Judicial District, a cost-saving measure has been implemented by restructuring the juvenile court personnel following the retirement of Carol Eastburn, long-time juvenile supervisor in Valley City. Eastburn had supervised the probation and juvenile guardian ad litem activities in Barnes, LaMoure and Dickey Counties. These activities were reassigned between the supervisor/referee at Valley City and the probation officers at Jamestown and Wahpeton. In another cost-saving measure, judges are increasing their use of telephone conferencing for motions and pre-trial conferences to reduce travel expense. Increased long-distance telephone expense is minimal compared with the travel expense savings.

Award:

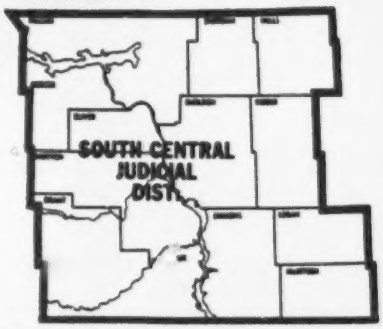
Judge John T. Paulson, District Court Judge from Valley City, received the 1989 annual recognition award from the Council on Abused Women's Services for his efforts in making judicial processes more accessible to victims and advocates in domestic violence matters, and his willingness to work as part of a team in dealing with domestic violence. He also had a significant impact statewide through his work on a pro se protection order project and his contribution to the Governor's Commission on Victims and Witnesses of Crime.

SOUTHEAST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1988 AND 1989

	1989	1988	Percent Difference
New Filings	1,825	1,825	—
Civil	1,524	1,544	-1.3
Criminal	112	152	-26.3
Juvenile	189	129	+46.5
Cases Carried Over From Previous Year	795	831	-4.3
Civil	691	702	-1.6
Criminal	104	129	-19.4
Juvenile	—	—	—
Total Cases Docketed	2,620	2,656	-1.4
Civil	2,215	2,246	-1.4
Criminal	216	281	-23.1
Juvenile	189	129	+46.5
Dispositions	1,852	1,861	-0.5
Civil	1,550	1,555	-0.3
Criminal	113	177	-36.2
Juvenile	189	129	+46.5
Cases Pending As Of December 31	768	795	-3.4
Civil	665	691	-3.8
Criminal	103	104	-1.0
Juvenile	—	—	—

Report of the South Central Judicial District

The Honorable Benny A. Graff, Presiding Judge
Ted Gladden, Court Administrator



District Court Judges: Benny A. Graff, Presiding Judge; Gerald G. Glaser; Larry M. Hatch; William F. Hodny; and Dennis A. Schneider
County Court Judges: James M. Bekken; Donavin L. Grenz; Gail Hagerty; Burt L. Riskedahl; Thomas J. Schneider; and O.A. Schulz
Number of Counties in District: 13
District Court Chambers: Bismarck, Mandan and Linton

District Court:

The judges of the district court continue to process the largest caseload in the largest geographical district in this state. The average length of time from filing to disposition of the 435 contested civil court trials was 5.7 months. This is an increase from five months in 1988. Civil jury cases required 22.1 months from filing until disposition on the average. This was a substantial increase from 1988, but a slight reduction from the 22.2 months required in 1987. The judges of the district processed 1,748 non-contested civil cases requiring 3.5 months on the average from filing to disposition. Part of the reason for this expeditious processing is the policy allowing stipulated divorces to be processed by affidavit if there is agreement of the parties and a property settlement is included. The elimination of the need for litigants to appear on these cases reduces the cost to the parties and eliminates unnecessary court appearances.

During the year the judges disposed of 332 felony criminal matters through plea agreements. They required an average of 83 days from filing to disposition. In 21 cases not guilty pleas were entered and the cases went to trial. On the average they required 209 days to dispose of from the time the case was bound over to district court until the judgment was entered.

The judges continue to monitor our jury management system. As a result, we have reduced the number of bailiffs to one per jury case to effect this cost saving. The actual number of jurors summoned is reviewed constantly to reduce the number of jurors summoned for trials in an effort to reduce jury costs.

Administrative Activities:

The Case Management Committee chaired by the Honorable Gerald G. Glaser concluded their work. As a result of this study activity recommendations were made to develop procedures for the early assignment and monitoring of non-routine civil cases usually involving multiple parties or unusual legal issues. Once a case is identified as complex, which occurs shortly after filing, a judicial assignment is made. An initial conference is set within ninety days of filing. This initiates the monitoring process, including discovery guidelines. This new system allows routine cases to be processed expeditiously.

The committee also recommended changes to the felony case processing district-wide. The changes implemented provide for assignment of felony cases to county judges in counties where a district judge is not chambered. Counsel must agree to the county judge disposing of the action.

Parties are now given cut off dates for filing motions before the actual arraignment. This makes each stage of the felony proceeding a substantial decision point. The objective is for earlier identification of the cases that will not be tried. This will free trial time for setting civil cases.

Phase II of the remodeling project in the Morton County Courthouse was initiated. This phase provides for the demolition of the third floor and rebuilding of the entire area. Once completed, the third floor will provide two courtrooms, one jury capable; a law library, as well as chambers for two district judges and support staff. This project will be completed in early spring 1990, and will meet our judicial needs well into the 21st century.

Juvenile Division and Judicial Referee Activities:

Two thousand six hundred and seventy cases were referred to the juvenile court. Of the total 730 children were referred back to the Bismarck-Mandan Police Youth Bureau for informal disposition. Three hundred and twenty eight temporary orders were issued in which children were placed in temporary alternative settings outside of the parental home. Of the total number of referrals, four hundred and fifty referrals involved children alleged to be abused or neglected and who were subject to social service protective investigations.

The three probation officers averaged 35 cases each during any given time during 1989. Personal contact was made on each case at least twice per month together with numerous collateral contacts.

Two judicial referees conducted 472 hearings on child support related matters. Hearings are routinely scheduled in all counties of the district. There were 396 formal petitions filed during the year. The vast majority of petitions filed result in referee hearings.

County Court:

The county courts of the judicial district continue to handle a very large caseload in a timely fashion. All small claims cases were decided within the time standards that must be followed as established by the N.D. Supreme Court. Judicial services are provided in every county of the judicial district. The vast volume of the actual cases occur in Burleigh and Morton Counties.

SOUTH CENTRAL JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1988 AND 1989

	1989	1988	Percent Difference
New Filings	4,319	4,162	+3.8
Civil	3,531	3,350	+5.4
Criminal	392	449	-12.7
Juvenile	396	363	+9.1
Cases Carried Over From			
Previous Year	1,493	1,522	-1.9
Civil	1,332	1,415	-5.9
Criminal	161	107	+50.5
Juvenile	—	—	—
Total Cases Docketed	5,812	5,684	+2.3
Civil	4,863	4,765	+2.1
Criminal	553	556	-0.5
Juvenile	396	363	+9.1
Dispositions	4,329	4,191	+3.3
Civil	3,535	3,433	+3.0
Criminal	398	395	+0.8
Juvenile	396	363	+9.1
Cases Pending As Of			
December 31	1,483	1,493	-0.7
Civil	1,328	1,332	-0.3
Criminal	155	161	-3.7
Juvenile	—	—	—

Report of the Southwest Judicial District

The Honorable Maurice R. Hunke, Presiding Judge
Ardean Ouellette, Court Administrator

District Court Judges: Maurice R. Hunke, Presiding Judge; Allan L. Schmalenberger; and Donald L. Jorgensen.
County Court Judges: Tom Beyer; Ronald L. Hilden; and F. Gene Gruber.
Number of Counties in District: 8
District Court Chambers: Dickinson and Hettinger

The trauma and drama of the budget seemed to dominate the year 1989 in the Southwest Judicial District. The year commenced with the biennial session of the Legislative Assembly and the presentation of our budget request to the Appropriations Committees of both Houses of the Legislature.

Notwithstanding the heavy fiscal pressures which our legislators suffered, the judiciary survived with what appeared to be a very tight but adequate appropriation, including limited salary increases. Unfortunately, adjournment of the legislature did not result in a conclusion of the budgetary process. The filing of petitions to refer the major revenue measures upon which the appropriation was based placed our budget in jeopardy again. Only three months after the new biennium started on July 1, we found it necessary to impose severe austerity measures while awaiting the outcome of the referral elections on December 5. Defeat of the revenue measures by the electorate resulted in even more severe cuts to meet the mandate of reducing our total appropriation by more than 9%. The results have been truly traumatic not only for judicial system employees, but litigants, attorneys and the public generally.

Caseload:

As indicated on the accompanying chart, for the second year in a row we had a decline in new case filings, although criminal and juvenile court cases increased. At the same time that new case filings were declining, our court administrator's procedures to reduce the age in months of our pending civil cases were paying handsome dividends. At the time of submission of this report, we are the first district in the state to achieve nearly complete docket currency in all categories.

Docket currency standards currently require that civil cases should be disposed within 24 months. We are exceeding that standard significantly in about 99% of our civil docket and will shortly achieve our long term goals of no civil litigation more than 21 months old.

SOUTHWEST JUDICIAL DISTRICT CASELOAD FOR CALENDAR YEARS 1988 AND 1989

	1989	1988	Percent Difference
New Filings	1,404	1,518	-7.5
Civil	1,219	1,353	-10.0
Criminal	101	95	+6.3
Juvenile	84	70	+20.0
Cases Carried Over From Previous Year	479	610	-21.5
Civil	446	567	-21.3
Criminal	33	43	-23.3
Juvenile	—	—	—
Total Cases Docketed	1,883	2,128	-11.5
Civil	1,665	1,920	-13.3
Criminal	134	138	-2.9
Juvenile	84	70	+20.0
Dispositions	1,407	1,649	-14.7
Civil	1,236	1,474	-16.1
Criminal	87	105	-17.1
Juvenile	84	70	+20.0
Cases Pending As Of December 31	476	479	-0.6
Civil	429	446	-3.8
Criminal	47	33	+42.4
Juvenile	—	—	—

COUNTY COURTS

County courts in North Dakota are funded by the counties. They are courts of record, served by full-time county judges who must be licensed lawyers.

There are twenty-seven county judges in North Dakota. Most of these judges serve more than one county. Counties are authorized to enter into multi-county agreements with one another for the services of one or more county judges. These agreements are negotiated every four years among the counties. Most of these multi-county county courts operate within the boundaries of a single judicial district.

Many counties are also served by magistrates. Because many county judges serve more than one county, they cannot always be in each county when they are needed. To assure continuity of judicial services in the judge's absence, the judge may appoint a magistrate to handle preliminary matters in the county until the judge returns. Through an administrative rule, the Supreme Court has established the qualifications, authority, mandatory training, and procedures governing magistrates. The county judge may delegate authority to magistrates to solemnize marriages, issue search warrants, preside at initial appearances in criminal cases and other duties. In several counties, the county judge has appointed the clerk of the district court as the magistrate for that county.

The county courts are limited jurisdiction courts. They have original and exclusive jurisdiction in probate, testamentary, guardianship, and mental health commitment cases. They have concurrent jurisdiction with municipal courts in traffic cases and concurrent jurisdiction with the district courts in trust and civil cases where the amount in controversy does not exceed $10,000. County judges also preside at the preliminary hearing in criminal felony cases before the case is turned over to the district court. The presiding judge of each judicial district may also assign a county judge to hear any district court case filed in the district.

County courts act as small claims courts in North Dakota. The jurisdictional limit for a small claims case is $2,000. There is no appeal from a decision of the county court when it is acting in its capacity as a small claims court. All decisions of the county courts in such instances are final.

County court judges have the same general power and authority as district court judges. Moreover, the rules of practice and procedure governing district court proceedings also apply to county court proceedings.

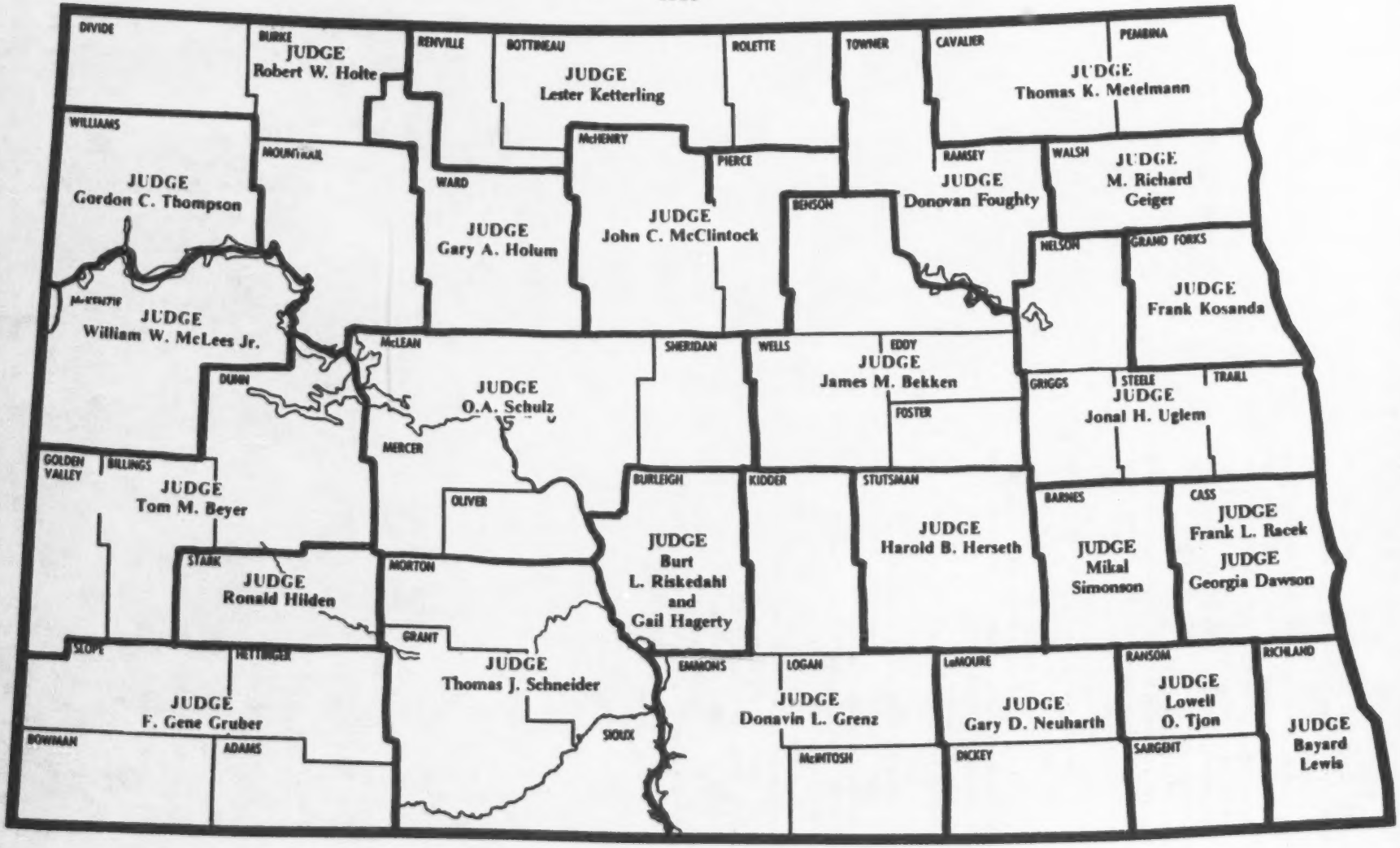
In addition to its trial court duties, county courts also serve as the appellate courts for appeals from municipal courts. All appeals from municipal courts to county courts are trial de novo appeals. In other words, when a municipal court case is appealed to the county court, a new trial is held in the county court. New trials are required in county courts because municipal courts do not maintain an official record of their proceedings. Appeals from the county court go directly to the Supreme Court.

In counties with a population over 25,000, the county judge has the authority to appoint a clerk of county court. In counties with a population less than 25,000, the clerk of district court also serves as the clerk of the county court.

In 1987, the Legislative Assembly provided that cities and counties could agree that the county court would hear all municipal ordinance violation cases of the city and that all municipal court cases in which the defendant fails to waive the right to a jury trial shall be heard in county court.

The office of county judge is an elected position, filled every four years in a nonpartisan election. If a vacancy occurs, the county commissioners can either fill the vacancy by selecting a candidate from a list of nominees submitted by a judicial nominating committee or by calling a special election to fill the vacancy. If the vacancy is filled by the nomination process, the appointed judge only serves until the next general election, at which time the office is filled by election for the remainder of the term. In those counties which share the services of a county judge, the judge is elected by the eligible voters of the participating counties. The appointment of a county judge to serve a multi-county area must be approved by a majority vote of each board of county commissioners of the counties involved.

COUNTY JUDGES AND COUNTY COURT MULTI-COUNTY AGREEMENT AREAS
1989



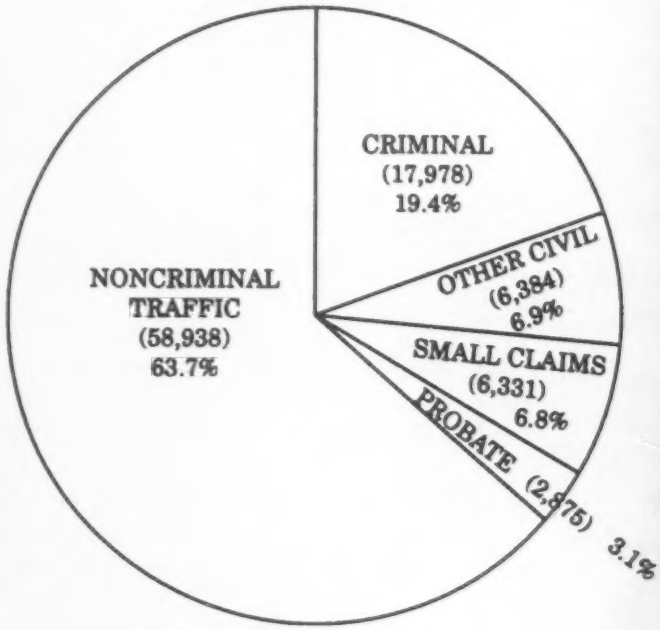
County Court Caseload

The breakdown of the county court caseload indicates a fairly significant decrease (10.2%) in the filings of cases in county court. This decrease followed a similar increase (10.3%) in 1988. The caseload continues to be predominately noncriminal traffic followed by criminal, small claims, and other civil and probate. The decrease in filings and numbers can nearly be all attributed to a 13% decrease in the noncriminal traffic category. Civil filings decreased by 5.4% while criminal cases decreased by 2.1%. Mental health hearings decreased by 5% following a 10% increase in 1988. Filings in small claims court decreased by 9%, following a 1% decrease in 1988, and a 15% decrease in 1987.

SYNOPSIS OF COUNTY COURTS CASELOAD FOR 1988 AND 1989

	1989	1988	Percent Difference
New Filings	92,506	103,013	-10.2
Civil	15,590	16,484	-5.4
Criminal	17,978	18,355	-2.1
Noncriminal Traffic	58,938	68,174	-13.5
Cases Carried Over From Previous Year	25,799	24,623	+4.8
Civil	20,979	19,584	+7.1
Criminal	4,820	5,039	-4.3
Noncriminal Traffic	—	—	—
Total Cases Docketed	118,305	127,636	-7.3
Civil	36,569	36,068	+1.4
Criminal	22,798	23,394	-2.5
Noncriminal Traffic	58,938	68,174	-13.5
Dispositions	91,265	101,837	-10.4
Civil	14,424	15,089	-4.4
Criminal	17,903	18,574	-3.6
Noncriminal Traffic	58,938	68,174	-13.5
Cases Pending As Of December 31	27,040	25,799	+4.8
Civil	22,145	20,979	+5.6
Criminal	4,895	4,820	+1.6
Noncriminal Traffic	—	—	—

TYPES OF CASES FILED IN THE COUNTY COURT IN 1989



COUNTY COURT FILINGS AND DISPOSITIONS FOR 1989

	Felony		Misdemeanor		Total Non-criminal Traffic	Small Claims		Probate		Guardianship/ Conservatorship		Other Civil		Mental Health & Emerg. Commit.
	(F)	(D)	(F)	(D)		(F)	(D)	(F)	(D)	(F)	(D)	(F)	(D)	
Adams	1	1	93	61	272	35	32	26	28	4	2	51	46	0
Barnes	32	32	370	398	1270	145	146	63	24	19	0	53	54	56
Benson	4	7	144	163	1365	57	58	30	19	3	2	22	21	2
Billings	1	2	33	36	248	3	3	14	7	1	5	5	4	1
Bottineau	25	27	155	160	832	67	72	89	44	6	1	44	40	11
Bowman	1	1	44	38	239	83	84	48	63	5	0	28	26	1
Burke	7	7	102	98	181	31	30	42	55	1	1	15	15	6
Burleigh	209	216	1334	1190	5613	404	402	132	108	36	34	846	811	89
Cass	271	295	2033	2230	4494	1569	1606	237	121	103	15	932	908	385
Cavalier	11	10	143	175	636	63	61	55	29	3	2	39	37	3
Dickey	11	12	122	154	1128	69	87	36	25	10	4	33	36	3
Divide	6	6	59	45	202	18	17	51	35	0	1	12	12	1
Dunn	19	15	145	137	885	36	34	23	17	5	18	19	21	3
Eddy	3	4	37	41	225	19	19	18	92	4	15	2	5	3
Emmons	6	5	55	56	378	32	30	17	18	9	7	15	16	5
Foster	2	2	96	114	371	86	89	25	33	2	2	11	12	0
Golden Valley	8	8	55	65	181	9	8	27	20	7	7	12	16	0
Grand Forks	207	228	1928	2194	5953	652	622	140	92	40	7	158	149	75
Grant	0	0	27	28	398	13	13	23	20	0	0	0	0	1
Griggs	12	15	148	158	576	34	33	30	11	3	1	10	11	1
Hettinger	3	3	37	38	384	13	13	30	12	3	0	26	20	0
Kidder	2	2	84	84	812	15	14	24	42	1	3	13	15	0
LaMoure	3	3	56	54	803	54	54	33	40	9	0	18	17	7
Logan	2	1	23	23	152	11	12	16	42	1	5	6	5	1
McHenry	8	11	110	111	1196	33	36	59	129	5	31	47	39	6
McIntosh	4	7	35	35	171	8	9	26	15	2	0	16	13	0
McKenzie	19	15	201	192	877	51	53	49	55	14	5	43	43	13
McLean	9	15	316	335	2458	49	56	67	29	9	2	45	38	6
Mercer	22	24	281	365	1084	94	113	38	15	5	0	56	54	13
Morton	97	100	746	689	2791	248	268	106	18	19	0	319	297	91
Mountrail	11	12	198	158	592	51	60	70	78	22	9	23	24	12
Nelson	2	2	104	118	773	20	21	35	19	4	0	8	9	1
Oliver	4	4	40	34	279	9	8	16	11	2	0	7	8	3
Pembina	26	27	328	395	926	86	84	73	44	7	6	58	57	10
Pierce	9	8	124	147	608	57	60	48	45	11	11	26	22	14
Ramsey	20	27	534	556	2781	208	211	72	71	17	8	73	79	16
Ransom	8	8	152	166	565	53	47	27	9	6	1	13	13	12
Renville	1	2	23	28	179	29	31	24	22	2	0	16	15	1
Richland	23	31	366	408	1280	217	239	92	67	14	5	56	65	30
Rolette	33	31	243	281	387	27	31	29	12	2	0	34	32	3
Sargent	3	6	43	45	585	34	35	23	18	0	0	10	9	0
Sheridan	1	2	30	43	83	8	7	10	12	2	1	10	9	7
Sioux	0	1	11	5	41	6	6	2	0	0	0	11	12	0
Slope	3	3	29	17	315	7	7	11	8	1	0	6	3	0
Stark	73	77	916	748	2052	256	267	99	69	30	3	243	231	47
Steele	0	0	0	0	0	5	5	22	25	0	0	0	0	0
Stutsman	53	54	915	884	2909	160	153	75	42	36	0	120	121	228
Towner	5	5	133	125	611	47	41	31	20	3	4	22	25	4
Traill	12	19	205	204	451	114	110	73	20	8	0	47	46	10
Walsh	39	40	646	600	1157	135	136	98	65	15	4	152	146	29
Ward	108	124	851	1179	3553	476	495	179	40	34	16	378	346	120
Wells	5	5	71	75	454	60	56	37	37	7	0	13	16	2
Williams	116	111	498	547	2182	265	246	155	109	26	5	194	191	58
TOTAL	1560	1673	15472	16230	58938	6331	6430	2875	2101	578	243	4416	4260	1390

Municipal Courts

There are approximately 360 incorporated cities in North Dakota. Of the total municipalities, approximately 150 cities have municipal courts. There are approximately 130 judges serving in these 150 municipalities. State law permits an individual to serve more than one city as a municipal judge.

In 1981, the Legislature amended the state law pertaining to municipalities to allow each municipality the option of deciding whether or not to have a municipal judge. Before this amendment, all incorporated municipalities were required to establish a municipal court.

In 1987, the Legislature amended the state law to permit county court judges to hear municipal ordinance violation cases and to permit cities to contract with counties to provide municipal ordinance violation court services.

Municipal judges have jurisdiction over all violations of municipal ordinances, except certain violations involving juveniles. Violations of state law are not within the jurisdiction of the municipal courts.

A municipal judge is elected for a four-year term. The judge must be a qualified elector of the city, except in cities with a population below 5,000. In cities with a population of 5,000 or more, the municipal judge is required to be a licensed attorney, unless an attorney is unavailable or not interested in serving. At present, there are approximately 24 legally-trained and 106 lay municipal judges in the state. Vacancies that occur between elections are filled by appointment by the municipality's governing body.

State law requires that each municipal judge attend at least two educational seminars conducted by the Supreme Court in each calendar year. If a municipal judge fails to meet this requirement without an excused absence from the Supreme Court, the judge's name is referred to the Judicial Conduct Commission for disciplinary action.

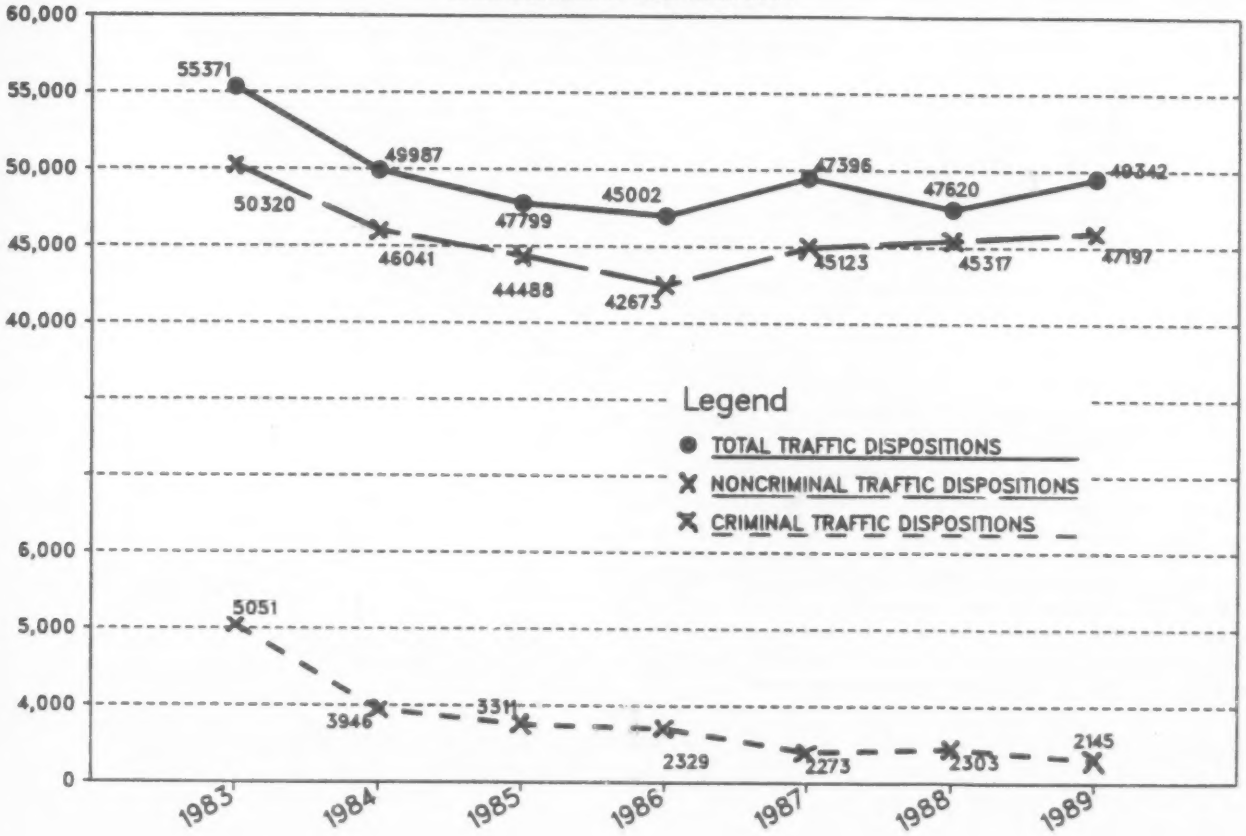
Most of the traffic caseload of the municipal courts consists of noncriminal traffic cases or administrative traffic cases. While these cases greatly outnumber the criminal traffic cases, they generally take much less time to process. There is not only a lesser burden of proof in noncriminal traffic cases than in criminal cases, most noncriminal traffic cases are disposed of by bond forfeitures. While judges are not needed to process bond forfeitures, support personnel in the clerk's office must account for every citation received by the court.

Although criminal traffic cases compose only a small percent of the caseload in municipal courts, they require more time and resources for their disposition than noncriminal traffic cases. Litigants are more likely to demand a trial in criminal traffic cases since the penalties for violation of criminal traffic laws are more severe than violations of noncriminal traffic laws. Moreover, the prosecutor also has a greater burden of proof in criminal traffic cases than in noncriminal traffic cases. In noncriminal traffic cases, the prosecutor must only prove each element of the offense by a preponderance of the evidence for conviction. In criminal traffic cases, the prosecutor must prove each element of the offense beyond a reasonable doubt.

COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR CALENDAR YEARS 1988 AND 1989

Ten Municipalities With Highest Case Volume	Criminal Traffic Dispositions		Noncriminal Traffic Dispositions		Total Traffic Dispositions		Percent Difference
	1989	1988	1989	1988	1989	1988	
Bismarck	319	237	9,972	8,113	10,291	8,350	+23.2
Dickinson	72	68	1,869	1,781	1,941	1,849	+5.0
Fargo	318	297	4,916	5,428	5,234	5,725	-8.6
Grand Forks	360	362	4,693	5,117	5,053	5,479	-7.8
Jamestown	92	103	3,587	3,096	3,679	3,199	+15.0
Mandan	85	126	2,272	2,827	2,357	2,953	-20.2
Minot	238	283	8,661	7,669	8,899	7,952	+11.9
Wahpeton	78	48	864	910	942	958	-1.7
West Fargo	83	114	1,163	842	1,246	956	+30.3
Williston	124	93	2,347	1,977	2,471	2,070	+19.4
TOTAL	1,769	1,731	40,344	37,760	42,113	39,491	+6.6

COMPARISON OF MUNICIPAL COURT TRAFFIC DISPOSITIONS FOR 1983-1989



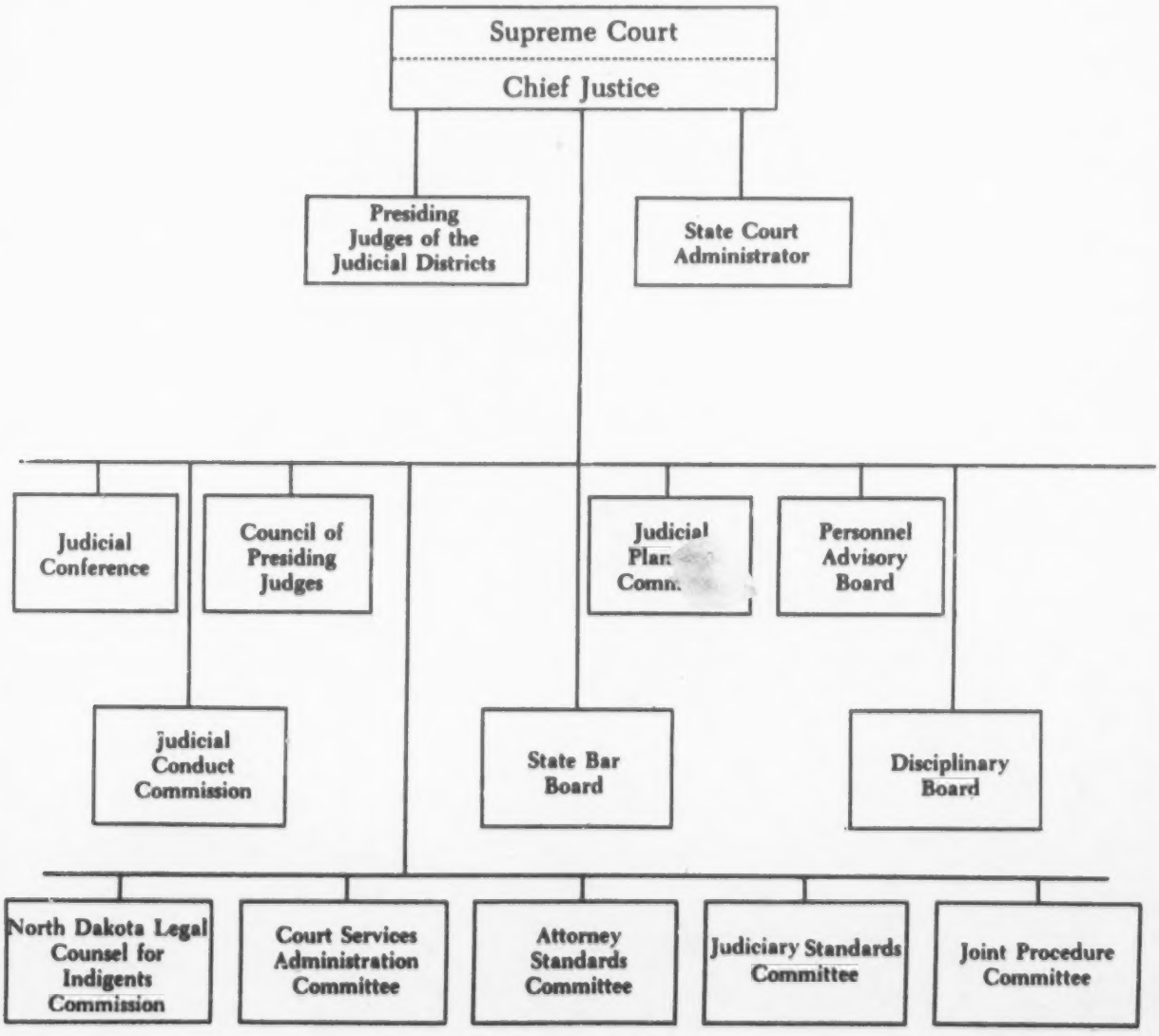
Administration of the Judicial System

Ultimate responsibility for the efficient and effective operation of the judicial system resides with the Supreme Court. The constitution has emphasized the Supreme Court's administrative responsibility for the judicial system by designating the chief justice as the administrative head of the judicial system. In addition, the state constitution also grants the Supreme Court supervisory authority over the legal profession. Article VI, Section 3 states that the Supreme Court shall have the authority, "unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarment of attorneys at law."

To help it fulfill these administrative and supervisory responsibilities, the Supreme Court relies upon the state court administrator, presiding judges, and various advisory committees, commissions and boards. The functions and activities of these various bodies during 1988 are described in the subsequent pages of this report.

A diagram of the administrative organization of the North Dakota judicial system is provided below.

ADMINISTRATIVE ORGANIZATION OF THE
NORTH DAKOTA JUDICIAL SYSTEM



Office of State Court Administrator

Article VI, Section 3 of the North Dakota Constitution authorizes the chief justice of the Supreme Court to appoint a court administrator for the unified judicial system. Pursuant to this constitutional authority, the Supreme Court has outlined the powers, duties, qualifications and term of the state court administrator in an administrative rule. The duties delegated to the state court administrator include assisting the Supreme Court in the preparation of the judicial budget, providing for judicial education services, coordinating technical assistance to all levels of courts, planning for statewide judicial needs, and administering a personnel system.

Judicial Education:

Under the guidance and supervision of the Judicial Conference Committee on Judicial Training, the Office of State Court Administrator develops and coordinates training programs for all levels of judicial and court support personnel. In addition, a number of other professional development and information activities are coordinated and conducted under the auspices of the State Court Administrator. These activities are described in greater detail in the section of this report which discusses the activities of the committee.

Research and Planning:

Staff services are provided to the Judicial Planning Committee and other advisory committees of the Supreme Court by the planning staff in the State Court Administrator's office. The duties of these staff personnel include research, bill drafting, rule drafting, arrangement of committee meetings, and such other tasks that are assigned by the various committees. Specific activities and projects of the different Supreme Court standing committees are provided in a latter section of this report.

Personnel Management:

The state funding of most district court employees in 1981 significantly increased the personnel management responsibilities of the State Court Administrator. To insure uniformity in personnel administration across districts, personnel policies and a pay and classification plan for district court employees were developed under the direction of the State Court Administrator.

Fiscal Responsibilities:

One of the State Court Administrator's primary administrative responsibilities is the management of the judicial budget. As the budget director for the judicial system, he is responsible for the coordination and preparation of the Supreme Court and District Court budgets, preparation and analysis of monthly budget status reports, the development of budgetary policies for the judiciary, and the maintenance of payroll records for judges and court personnel.

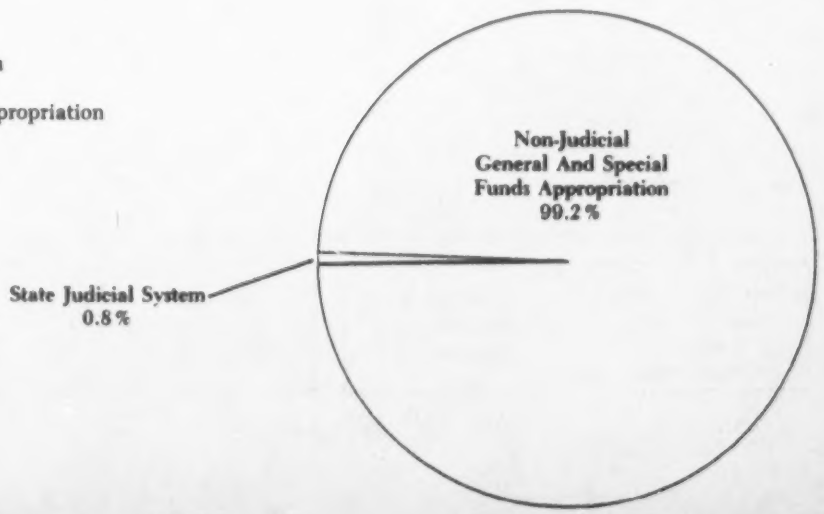
Even with the addition of most District Court expenses to the judicial budget, the judicial budget constitutes only a small portion of the state's total budget for the 1987-89 biennium. However, this is not to say that the budgetary impact of the additional expenses has been minimal. Since the absorption of most district court expenses by the state in 1981, the judicial portion of the state's budget has doubled.

The impact of the state's funding of nearly all District Court expenses can also be seen in the way in which the judicial budget is allocated. Whereas the Supreme Court portion of the judicial budget used to be over 40 percent, now it is less than 23 percent.

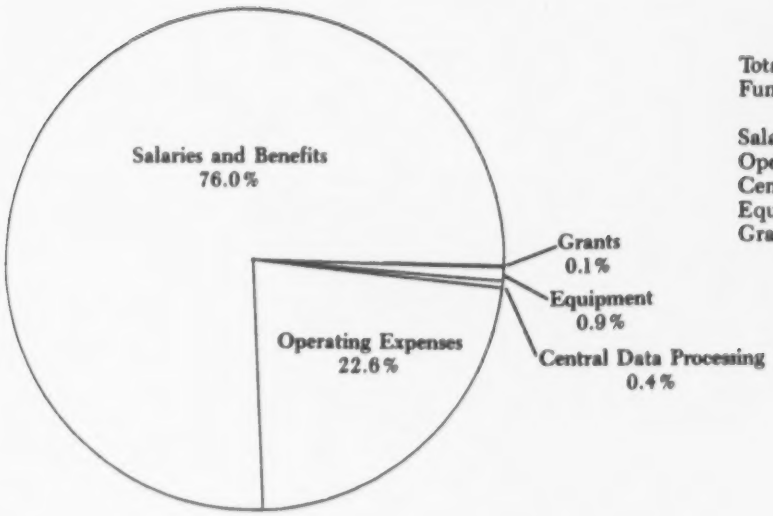
In viewing the judicial budget, it should be noted that it does not include the salaries of district court clerks and deputy clerks or any county court or municipal court expenditures. District court clerk expenses and county court expenses are funded by county government in North Dakota. Likewise, municipal courts are funded by the particular municipalities they serve.

JUDICIAL PORTION OF THE STATE'S BUDGET
1989-91 BIENNIUM

Total General and Special Funds Appropriation
$2,850,417,431
Judicial System General and Special Funds Appropriation
$23,016,230



STATE JUDICIAL SYSTEM APPROPRIATION
BY APPROPRIATED LINE ITEM
1989-91 BIENNIUM

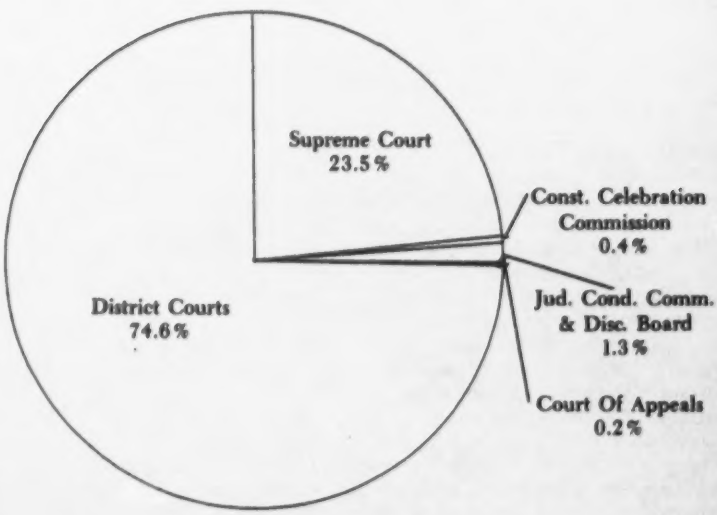


Total Judicial System General and Special Funds Appropriation
$20,130,589

Salaries and Benefits	$17,492,794
Operating Expenses	5,197,961
Central Data Processing	102,500
Equipment	197,975
Grants	25,000

STATE JUDICIAL SYSTEM APPROPRIATION
BY TYPE OF ACTIVITY
1989-91 BIENNIUM

Supreme Court	
General Fund	$5,190,308
Special Funds	213,300
TOTAL	$5,403,608
District Courts	
General Fund	$17,031,208
Special Funds	142,332
TOTAL	$17,173,540
Court of Appeals	
General Fund	$42,000
Special Funds	—
TOTAL	$42,000
Judicial Conduct Commission & Disciplinary Board	
General Fund	$237,082
Special Funds	60,000
TOTAL	$297,082
Constitutional Celebration Committee	
General Fund	$ 50,000
Special Funds	50,000
TOTAL	$100,000



Advisory Committees of the North Dakota Judicial System:

To assist in its administrative supervision of the North Dakota judicial system, the Supreme Court utilizes the services of numerous advisory committees. These committees address specific problem areas within their study scope and recommend solutions to the Supreme Court.

Four of these committees — the joint procedures committee, the attorney standards committee, the judiciary standards committee, and the court services administration committee — were established by the Supreme Court in 1978 as a part of its rulemaking process within the North Dakota judicial system. One of these committees, the joint procedure committee, existed before the Supreme Court adopted its 1978 rulemaking process.

The committees of the North Dakota judicial system include the judicial planning committee, the personnel advisory board, the judicial training committee of the North Dakota judicial conference, the North Dakota legal counsel for indigents commission, and the council of presiding judges. The constitutional celebration committee was established for the period 1988-91. In 1989, all committees experimented with telephone conference call meeting formats, in a cooperative effort to reduce meeting costs while maintaining committee consultation and advisory functions.

The activities of these advisory committees during 1989 are summarized here:

Judicial Planning Committee:

The judicial planning committee is the forum for overall planning for judicial services in North Dakota. It is chaired by Justice Beryl J. Levine and its membership includes members and employees of the judiciary, as well as members of the bar and the public. The role of the committee is to identify, describe, and clarify problem areas which can be referred to judicial leaders and other standing committees for resolution.

As part of the planning process, the committee prepares a judicial master program for each biennium which sets the goals, objectives, and tasks for the North Dakota judicial system during that biennium.

In 1989 the committee continued work in preparation of the "Judicial Master Program for the Biennium Ending June 30, 1991", through a drafting subcommittee, chaired by Judge Robert Holte of Stanley. This Judicial Master Program was based on the local judicial district plans submitted to the committee and the results of opinion surveys of the public and judicial system personnel.

The committee also proposed a "North Dakota Judicial System Agenda for the Decade: 1991—2000" to provide clear direction for the development of improvements in the North Dakota judicial system during this period.

At the request of the committee, a North Dakota judicial system leadership retreat was held in September 1989, to further explore future directions in areas set by the Agenda for the Decade.

Joint Procedure Committee:

The joint procedure committee studies and revises the procedural rules of North Dakota, including the rules of civil procedure, criminal procedure, appellate procedure, evidence, and other rules of pleading, practice and procedure. The committee proposes to the Supreme Court amendments to existing rules or, when appropriate, the adoption of new procedural rules.

The committee is chaired by Justice H.F. "Sparky" Gierke and its membership is composed of ten judges, representing the judiciary, and ten attorneys, representing the state bar association of North Dakota. Since publication of the bound volume of rules in 1988, the committee approved and submitted to the North Dakota Supreme Court for adoption amendments to the rules of civil procedure, rules of criminal procedure, rules of evidence, rules of appellate procedures, and rules of court. Many of the amendments were technical in nature; however, substantive amendments were made to Rule 4, NDRCivP; Rule 81, NDRCivP, and Table A; Rule 15, NDRCrimP; Explanatory Note to Rule 23, NDRCrimP; Rule 803, NDREv; Rule 42, NDRAppP; Rule 3.2, NDROC; and Appendix A to Rule 8.2, NDROC. The supreme court adopted the committee's recommendations with an amendment to Rule 803, NDREv, along with the explanatory notes to all of the rules. All of the amendments to the rules have an effective date of March 1, 1990.

The Michie Company is publishing a new soft-cover volume of the court rules to replace Volume 5B of the Century Code. It will contain all of the rules that are currently carried in the 1988 edition of the North Dakota court rules that is published by West Publishing Company. In addition, West Publishing Company is also publishing a new edition of the court rules.

Attorney Standards Committee:

The attorney standards committee studies and reviews all rules relating to attorney supervision. The committee is chaired by Vern C. Neff of Williston.

During 1989, the committee continued its work through subcommittees. The professional conduct subcommittee, chaired by Christine Hogan of Bismarck, continued its work to monitor the experience under the new North Dakota rules of professional conduct.

The access to disciplinary board files study subcommittee, chaired by Gerald Galloway of Dickinson, initiated study of the issue of law enforcement and prosecutor access to disciplinary board files.

The client trust account security study subcommittee, chaired by Marilyn Foss of Bismarck, initiated study of the American Bar Association model rules for trust account overdraft notification, and review of trust account programs. This subcommittee is currently in the process of soliciting the views and comments of the members of the North Dakota bar.

Judiciary Standards Committee:

The judiciary standards committee, chaired by Jane Voglewede of Fargo, studies and reviews all rules relating to the supervision of the judiciary, including judicial discipline, judicial ethics and the judicial nominating process.

During 1989, the judiciary standards committee completed its study of judicial performance evaluation through a special subcommittee, chaired by Judge Donavin Grenz of Linton. The subcommittee proposal is pending in the North Dakota Supreme Court.

The committee also completed a study of the problem of unjust criticism of judges and the legal system through a special study subcommittee, chaired by Judge Dennis Schneider of Bismarck. The subcommittee report is pending review by the board of governors of the State Bar Association of North Dakota.

Court Services Administration Committee:

The court services administration committee studies and reviews all rules and orders relating to administrative supervision of the North Dakota judicial system. It is chaired by William A. Strutz of Bismarck.

In 1989, the court services administration committee discussed the timeliness of trial court motion practice in North Dakota and the possible need for a monitoring mechanism or docket currency standards to address motion practice.

The county court and district court judges legal research subcommittee, chaired by Judge Thomas Metelmann, continued its study of future legal research services for district courts and county courts.

The committee initiated a study of judicial district boundary lines and procedures for chamber city designation through a special subcommittee, chaired by Judge William Hodny. The subcommittee completed its work on a proposal for designation of resident district court judge chambers.

The county court and clerk of district court funding study subcommittee, chaired by County Judge Jonal Uglem, continued the study of state funding of clerk of district court services and county court unification in cooperation with the North Dakota

association of counties. The 1989 Legislature approved Section 11-10-02, NDCC (HB 1451), which was derived from discussion drafts of the subcommittee, to provide for optional state funding of clerk of district court services.

Judicial Training Committee:

The judicial training committee is a committee of the North Dakota judicial conference. It has fourteen members representing a cross-section of judges and court personnel. Judge Larry Hatch, a district court judge in the south central judicial district, is the current chairman of the committee.

The committee is primarily responsible for providing seminars and other educational tools which meet the professional needs of judges and court personnel of the North Dakota judicial system. In addition to its program development function, the committee also has a variety of other duties. They include:

1) Development of a biennial training budget for in-state and out-of-state training programs;

2) Monitoring training costs and programs to promote cost effectiveness;

3) Designation of approved out-of-state professional development programs and sponsors; and

4) Drafting and reviewing appropriate legislation and court rules relating to judicial training.

During 1989, the judicial system conducted three seminars for its judges and court personnel. This reduced level of training activity was due to severe budgetary constraints resulting from statewide budget reductions.

Through the efforts of a special curriculum subcommittee, the judicial training committee received two grants from the State Justice Institute during 1989. One grant will allow the judicial system to develop a new judge orientation program for district court judges and county court judges. The other grant provides funding for the judicial system to establish a judicial institute at the University of North Dakota School of Law for district court judges and county court judges. Together both grants total approximately $90,000.

Personnel Advisory Board:

The personnel advisory board was created by the Supreme Court in January 1982, and reconstituted by the Supreme Court in July 1984. A district court judge was added to the board in May 1988. The board consists of the state court administrator, a district court judge, three district court employees, and three Supreme Court employees. The state court administrator is an ex officio member of the board while the district court judge and six employees are appointed to the board by the chief justice. The chief justice also designates the chairperson of the board from among its membership.

The board serves as an advisory body to the chief justice and the Supreme Court; it has no independent decisionmaking authority. In this capacity the board has two primary functions:

1) To develop personnel policies for the North Dakota judicial system; and

2) To serve as a review board for employee grievances, reclassification requests, and other personnel matters.

During 1989 the board continued to work with a consultant to revise the judiciary's pay and classification system. After the development of a preliminary proposal, the board requested comments on it from judges and court personnel throughout the judicial system. It also invited interested parties to discuss the proposal with it at its August meeting. The board modified the proposal after considering these comments and voted to recommend its adoption by the Supreme Court in November.

North Dakota Legal Counsel for Indigents Commission:

The North Dakota legal counsel for indigents commission is composed of seven members who are nominated by the North Dakota association of counties, the chief presiding district court judge, the board of governors of the state bar association of North Dakota, and the attorney general, and appointed by the chief justice. District Judge John Paulson serves as chair of the commission.

The commission provides rules and guidelines for the administration of indigent defense services in criminal cases in North Dakota. It provides a mechanism for the resolution of counsel fee disputes between judges and court appointed attorneys or contract attorneys who are representing indigent defendants in criminal, mental health commitment, and juvenile cases.

The funds appropriated by the legislature for indigent defense services in criminal and juvenile proceedings in the district courts of North Dakota are administered by each of the seven judicial districts. Each county in the state is responsible for the funding of the indigent defense expenses that arise in the criminal and mental health proceedings in the county court of that county. Each city is responsible for funding the indigent defense expenses that arise in criminal cases in municipal court.

Constitutional Celebration Committee:

The constitutional celebration committee, chaired by Justice Herbert L. Meschke, was established to assist and encourage celebration of the bicentennial of the U.S. Constitution during 1988—1991 and celebration of the centennial of the North Dakota Constitution in 1989. The committee is made up of judges, attorneys, legislators, and civic leaders.

The committee participated in the sponsorship of the North Dakota Constitution traveling exhibit, "Equally Free and Independent", in 24 community libraries in North Dakota, in cooperation with the state historical society, the North Dakota national guard, and the North Dakota humanities council.

The committee supported the efforts of the secretary of state and state historical society in the protection of the original North Dakota constitutional documents. They coordinated the government day ceremony on February 22, 1989, in the state capitol.

Council of Presiding Judges

The Council of Presiding Judges consists of the presiding judges of each of the seven judicial districts with the chairman being named by the chief justice. Present members of the Council are: Benny A. Graff, Chairman; Maurice R. Hunke; Wallace D. Berning; James H. O'Keefe; Kirk Smith; Norman J. Backes; Robert L. Eckert.

The role of the Council of Presiding Judges consists primarily in the area of budgets and caseloads with the responsibility to ensure that the business of the courts is handled with dispatch and efficiency. The Council meets on call of the chairman. In attendance at each of the meetings is the chief justice, the state court administrator, the trial court administrators, and selected staff members of the administrative office.

In 1989, as a result of severe budget restrictions and the referral of scheduled tax increases, the Council of Presiding Judges met six times during the year. At each meeting there was a review of the district court budgets as they relate to the legislative appropriation and the various program areas within the district courts. Several of the meetings in 1989 were devoted to reducing the district court budgets both prior to and following the voters' referral of the tax increase for the sales and income tax.

Some of the other major issues that came before the presiding judges in 1989 were such matters as a proposed policy on equipment and software purchases, the transfer of prosecution witness fees from the judiciary to the office of the attorney general, the matter of district court jurors receiving workers compensation, telephone expenses while traveling on court business, and the responsibility of payment for indigent defense counsel in extradition hearings. The Council also discussed the status of the pay and classification for district court employees. Also, the Council studied the matter of compensation of temporary judges and the use of fax machines in district court operations.

Disciplinary Board

The Disciplinary Board of the Supreme Court has responsibility for handling complaints alleging unethical conduct by North Dakota attorneys.

There are seven lawyer and three non-lawyer members of the Board, as follows: Michael L. Halpern, Glen Ullin, Chair; J. Michael Nilles, Fargo, Vice Chair; Karen K. Braaten, Grand Forks; Dann E. Greenwood, Dickinson; Robert C. Heinley, Carrington; Lewis C. Jorgenson, Devils Lake; Bishop Robert Lynne, Bismarck; Richard Stern, Fargo; Robert L. Hoss, Fargo; Michel W. Stefonowicz, Crosby. Luella Dunn, Clerk of the Supreme Court, serves as the secretary for the Board. Disciplinary Counsel is Vivian E. Berg.

Complaints against attorneys are docketed by the secretary and forwarded either to the chairman of Inquiry Committee East or Inquiry Committee West of the State Bar Association. An investigation is then conducted by a member of the respective committees or disciplinary counsel, with opportunity to appear before the Inquiry Committee for both the attorney and complainant as provided in the rules.

Inquiry Committees may dismiss complaints, issue a private reprimand, consent probation, or both, or direct formal proceedings. The attorney issued a private reprimand may demand, as of right, that formal proceedings be instituted.

If the complainant is dissatisfied with the disposition of the Inquiry Committee, an appeal may be filed with the Disciplinary Board for review. This action must be taken within 30 days of receipt of notice of the disposition.

Formal proceedings are instituted by Disciplinary Board counsel upon the direction of the Inquiry Committee through a petition for discipline, heard by a hearing body appointed by the chairperson of the Board and which reports to the Board. The Board submits a report to the Supreme Court if its recommendation is for public discipline, and the matter is presented to the Court with briefs and oral argument. Review is de novo on the record and the standard of proof is clear and convincing evidence.

Following is a summary of complaints handled by the Disciplinary Board in 1989.

SUMMARY OF DISCIPLINARY BOARD COMPLAINTS FOR THE YEAR 1989

New Complaints filed for the year 1989	113
General Nature of new complaints filed:	
Client Funds and Property	2
Conflict of Interest	4
Criminal Conviction	2
Excessive Fees	8
Failure to Communicate/Cooperate With Client	1
Improper Conduct	52
Incompetent Representation	28
Misappropriation/Fraud	2
Neglect/Delay	12
Solicitation	1
Unauthorized Practice of Law	1
TOTAL	113
Disciplinary Proceedings pending from prior years	24
Complaints carried over from previous year	56
Total Complaints for consideration in 1989	193
Disposition of Complaints:	
Dismissed	95
Private Reprimands issued by Inquiry Committee	10
Private Reprimands issued by Hearing Panel	1
Public Reprimands issued	1
*Suspensions	5
Disciplinary proceedings instituted and pending	31
Complaints pending 12/31/89	50
TOTAL	193

*Three separate complaints against one attorney resulted in suspension

Judicial Conduct Commission

The Judicial Conduct Commission was established by the legislature in 1975 with the enactment of Chapter 27-23 of the North Dakota Century Code. It is empowered to investigate complaints against any judge in the state and to conduct hearings concerning the discipline, removal, or retirement of any judge.

The seven members of the Commission include one district judge, one county judge, one attorney, and four citizen members. Members of the Commission, prior to July 1, 1989, were Janet Maxson, Minot, Chair; Frederick E. Whisenand, Williston, Vice Chair; Dorreen Yellow Bird, New Town; Rick Maixner, New England; Clifton Odegard, Buxton; Honorable James M. Bekken, New Rockford; and Honorable William F. Hodny, Mandan. The Clerk of the Supreme Court, Luella Dunn, is secretary for the Commission. Staff Counsel is Vivian E. Berg. On July 1, 1989, Frederick E. Whisenand, Jr. completed two three-year terms on the Judicial Conduct Commission, and under the statute was not eligible for reappointment. The State Bar Association selected Robert C. Heinley of Carrington to succeed Mr. Whisenand. Dorreen Yellow Bird was reappointed by Governor Sinner for another three-year term.

Complaints against judges are filed with the Commission's secretary, who acknowledges their receipt and forwards them to staff counsel for investigation. The judge against whom the complaint is filed is given notice and provided an opportunity to present such matters as he or she may choose.

By far the majority of complaints are dismissed as being without merit. However, the Commission may issue a private censure or direct that formal proceedings be instituted. If formal proceedings are instituted, the matter may be heard by the Commission or by a master or masters appointed by the Supreme Court.

The following table summarizing the nature and disposition of complaints in 1989 suggests that many complaints reflect matters properly the subject of appellate review.

SUMMARY OF JUDICIAL CONDUCT COMMISSION COMPLAINTS FOR THE YEAR 1989

New Complaints filed in 1989	19
General Nature of Cases filed:	
Improper Judicial Conduct	4
Biased Decisions	4
Conflict of Interest	2
Failure to Comply with Law	2
Failure to Afford Complainant Due Process	5
Delay in Rendering Decision	2
TOTAL	19
Complaints carried over from 1988	3
TOTAL Complaints for consideration	22
Disposition of Complaints:	
Dismissals	13
Private Censure	3
Complaints Pending 12/31/89	6
TOTAL	22

Of the New Complaints Filed in 1989:

6 were against County Judges
11 were against District Court Judges
1 was against Municipal Judge
1 was against Supreme Court Justice
*19

State Bar Board Annual Report — 1989

North Dakota celebrated its 100th birthday in 1989, therefore, it seems fitting to briefly review the history of the State Bar Board. Six years after statehood in North Dakota, a provision for examination of applicants for admission to the Bar was adopted. The Revised Code of 1895 provided that applicants be examined in open court either by the judges, or by a committee of three lawyers appointed by the Court. The 1905 Legislature adopted emergency legislation, effective February 18, 1905, providing that the Supreme Court appoint a Board of Bar Examiners. This legislation was enacted to relieve the Supreme Court Justices of the duty of examining prospective lawyers for admission to the bar. The law authorized the Board to hold two examinations each year, both written and oral, for admission to the Bar. On February 18, 1905, the Court appointed Andrew A. Bruce, Grand Forks; Emerson H. Smith, Fargo; and John Burke, Devils Lake, as the first Board of Bar Examiners.

Seventy years ago, the 1919 Legislature created a three-member State Bar Board which exists today and authorized the Governor to appoint its first members. Governor Lynn Frazier appointed the following: R. Goer, Devils Lake; S. E. Ellsworth, Jamestown; and George H. Moellring of Ray. During this same legislative session, the requirement of an annual license fee for lawyers was adopted. The amount of the first fee was $15 per year. The statute still provides that the State Bar Board shall issue the licenses to practice law upon payment of the current fee, which according to current law cannot exceed $200 per year.

The 1919 Legislature also vested in the State Bar Board the duty of investigating and prosecuting complaints against lawyers. Complaints were referred to the State Bar Board by the Supreme Court. In 1965, the Grievance Commission, presently known as the Disciplinary Board of the Supreme Court, was created. It is authorized to investigate informal complaints filed against lawyers.

The 1923 Legislature removed the appointment of the State Bar Board from the Governor and returned that authority to the Supreme Court where it remains today. The history of the membership of the State Bar Board confirms that lawyers chosen to serve on the Board are selected from highly qualified nominees who are currently licensed and actively engaged in the practice of law. Several of the previous members have ultimately served with distinction as governor, attorney general, or judges of the Supreme or District Courts.

Applicants for admission by examination to the Bar of North Dakota are examined by the State Bar Board as to both their legal ability and character and fitness to practice law. The North Dakota State Bar Examination consists of the Multistate Bar Examination and the North Dakota Essay Examination. The Multistate Bar Examination covers the subjects of Constitutional Law, Contracts, Criminal Law, Evidence, Torts and Real Property. The North Dakota Essay Examination covers the subjects of Practice and Procedure; Equity; Business Associations; Commercial Transactions; Family Law; and Wills, Estates and Trusts. As a requirement for admission, applicants for admission by examination must also pass the Multistate Professional Responsibility Examination by achieving a scaled score of 80 or more. This is a national exam given three times yearly at the University of North Dakota School of Law.

Two bar examinations are generally offered each year, one in February and one in July. Statistics for the 1989 bar examinations are:

	# Applicants	# Successful % Successful	# UND Grads.	# Successful % Successful
2-89 Exam	21	14/66%	17	11/64%
7-89 Exam	47	42/89%	41	36/87%

Of the sixty individuals admitted to the North Dakota Bar in 1989, 13 were females. Five of the 60 were admitted on motion, having been actively engaged in the practice of law in another state for the required number of years. In 1989, the State Bar Board licensed 1,618 lawyers and judges compared with 1,596 licenses issued in 1988. In 1989, 233 of the lawyers licensed were women.

John D. Kelly of Fargo presently serves as President of the State Bar Board. Malcolm Brown, Mandan, and Gerald Galloway, Dickinson, serve with Mr. Kelly. By statute, the Clerk of the Supreme Court serves as Secretary-Treasurer of the State Bar Board.

Judicial Conference

The North Dakota Judicial Conference was originally established as an arm of the judicial branch of state government in 1927. At that time, the organization was known as the North Dakota Judicial Council. Present statutory language covering the Judicial Conference is found in Chapter 27-15, NDCC, as amended in 1985.

There are currently seventy-four members of the Judicial Conference. As ex officio members, the conference consists of all Supreme Court Justices, District Court Judges, and County Court Judges. Other ex officio members are the Attorney General, the Dean of the University of North Dakota School of Law, and the Clerk of the North Dakota Supreme Court. Other members of the Conference include two judges of the Municipal Courts, as appointed by the Municipal Judges Association, and five members of the North Dakota Bar Association, who are appointed by the Bar Association. All Surrogate Judges, as appointed by the Supreme court under Section 27-17-03, NDCC, are also Conference members.

All ex officio members of the Conference serve during the time they occupy their respective official positions. The term of office of the two Municipal Judges is two years. The term of office for the five members of the bar is five years. Vacancies on the Judicial Conference are filled by the authority originally selecting the members.

The State Court Administrator serves as the Executive Secretary of the Judicial Conference.

The officers of the Judicial Conference consist of the chairman and chairman-elect, who are selected for a term of two years by the members of the Conference. In addition, there is an executive committee consisting of the Chairman, Chairman-elect, a Justice of the Supreme Court elected by the Supreme Court, a District Judge elected by the Association of District Judges, and a County Judge elected by the Association of County Judges.

Under North Dakota law, the Judicial Conference is required to meet twice each year. These meetings are usually held in June and November. Special meetings, however, may be called by the chairman. While members of the Judicial Conference are not compensated for their services, they are reimbursed for their expenses while discharging their Conference duties.

The Judicial Conference has four major duties. They are:

1. Solicit, receive, and evaluate suggestions relating to the improvement of the administration of justice.
2. Consider and make recommendations to the Supreme Court for changes in rules, procedures, or any matter pertaining to the judicial system.
3. Coordinate continuing judicial education efforts for judges and support staff.
4. Establish methods for review of proposed legislation which may affect the operation of the judicial branch.

To support the activities of the full conference, there has been created by Conference bylaws the following standing committees:

1. Program Planning Committee, Justice H.F. Gierke, Chairman
2. Committee on Legislation, Justice Herbert L. Meschke, Chairman
3. Committee on Judicial Salary and Retirement, Justice H.F. Gierke, Chairman
4. Committee on Courts with Limited Jurisdiction, Judge Harold B. Herseth, Chairman
5. Committee on Judicial Training, Judge Larry Hatch, Chairman

The conference has also created a special committee known as the Judicial Immunity Committee chaired by District Judge Kirk Smith and the Jury Management Committee, chaired by District Judge Jon Kerian.

Committee membership results from appointment by the chairman after consultation with the executive committee of the Judicial Conference. The bylaws provide that non-conference members can serve on either standing or special committees.

The officers and executive committee of the Judicial Conference are as follows:

Judge Jonal H. Uglem, Chairman
Justice H.F. Gierke, Chairman-elect
Justice Gerald W. VandeWalle, Executive Committee
Judge Lawrence E. Jahnke, Executive Committee
Judge James Bekken, Executive Committee

NORTH DAKOTA JUDICIAL CONFERENCE

Justices of the Supreme Court

Ralph J. Erickstad

Gerald W. VandeWalle
H.F. Gierke III
Beryl J. Levine
Herbert L. Meschke

Judges of the District Courts

South Central District
*Benny A. Graff
Gerald G. Glaser
Dennis A. Schneider
Wm. F. Hodny
Larry M. Hatch

Southwest District
*Maurice R. Hunke
Allan L. Schmalenberger
Donald L. Jorgensen

Northwest District
*Wallace D. Berning
Everett Nels Olson
Jon R. Kerian
Wm. M. Beede
Bert L. Wilson

Southeast District
*Robert L. Eckert
John T. Paulson
Gordon O. Hoberg

Northeast District
*James H. O'Keefe
William A. Neumann
Lee A. Christofferson

Northeast Cent District
*Kirk Smith
Joel D. Medd
Bruce E. Bohlman
Lawrence E. Jahnke

East Central District
*Norman J. Backes
Lawrence A. Leclerc
Michael O. McGuire
Cynthia A. Rothe

Judges of the County Courts

James M. Bekken
Tom W. Beyer
Georgia Dawson
Donavan J. Foughty
M. Richard Geiger
Donavin L. Grenz
F. Gene Gruber
Gail Hagerty
Harold B. Herseth
Ronald L. Hilden
Robert W. Holte
Gary A. Holum
Lester S. Ketterling
Frank Kosanda
Bayard Lewis
John C. McClintock
Wm. W. McLees
Thomas Metelmann
Gary D. Neuharth
Frank L. Racek
Burt L. Riskedahl
Thomas J. Schneider
Orville A. Schulz
Mikal Simonson
Gordon Thompson
Lowell O. Tjon
Jonal H. Uglem

Judges of the Municipal Courts

Marian Schatz
David Walth

Surrogate Judges of the Supreme & District Courts

Wm. L. Paulson
Vernon R. Pederson
Eugene A. Burdick
Douglas B. Heen
A.C. Bakken
Roy A. Ilvedson
John O. Garaas

Attorney General Nicholas J. Spaeth
Clerk of the Supreme Court Lu Dunn
Dean of the UND School of Law Jeremy Davis

Members of the Bar

Kermit Edward Bye
Walfrid B. Hankla
Carol Ronning Kapsner
Paul G. Kloster
Dwight C. H. Kautzmann

Executive Secretary
William G. Bohn

*Denotes Presiding Judge

6/13/90
75 Members

JUDICIAL BRANCH

Bismarck, North Dakota

COMBINED STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES — ALL GOVERNMENTAL FUND TYPES AND EXPENDABLE TRUST FUNDS

For the fiscal years ended June 30, 1989 and 1988

	GOVERNMENTAL FUND TYPE GENERAL		FIDUCIARY FUND TYPE EXPENDABLE TRUST	
	1989	1988	1989	1988
REVENUE:				
Charges for Service—Other				
Charges for Service—General Govt.	$ 24,150	$ 24,013		
Misc.—Leases, Rents & Royalties	3	10		
Miscellaneous—Other	204,648	142,731		
Judges Retirement Assessments			$ 8,394	$ 8,631
Interest Income			172	201
Registrations			50	
Total Revenue	$ 228,801	$ 166,754	$ 8,832	$ 8,832
EXPENDITURES:				
Salaries & Wages	$ 7,012,044	$ 7,096,661		
Operating Expenses	2,108,421	2,158,319	$ 717	
Data Processing	64,306	32,036		
Equipment	206,256	38,883		
Judges Retirement Benefit Payments	396,713	393,520	1,279	$ 9,307
Court of Appeals	4,450			
Total Expenditures	$ 9,792,191	$ 9,719,419	$ 1,996	$ 9,307
Excess of Revenue Over (Under) Expenditures	$(9,563,390)	$(9,552,665)	$ 6,620	$ (475)
OTHER FINANCING SOURCES (USES):				
Transfers to State General Fund	$ (79,618)	$ (84,948)		
Transfers From State General Fund	9,643,008	9,637,613		
Total Other Financing Sources (Uses)	$ 9,563,390	$ 9,552,665	$ -0-	$ -0
Excess of Revenue and Other Sources Over (Under) Expenditures and Other Uses	$ -0-	$ -0-	$ 6,620	$ (475)
Fund Balance-July 1	$ -0-	$ -0-	$ 171,377	$ 171,852
Fund Balance-June 30	$ -0-	$ -0-	$ 177,997	$ 171,377